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SALUS POPULI SUPREMA LEX ESTO

"The welfare of the people shall be the supreme law."



ROBIN CARNAHAN
SECRETARY OF STATE

MISSOURI REGISTER

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IN THIS ISSUE:

EMERGENCY RULES

Department of Economic Development	
Missouri State Committee of Interpreters	1465

EXECUTIVE ORDERS

PROPOSED RULES

Department of Economic Development	
State Board of Pharmacy	1468
Missouri State Committee of Interpreters	1486
Department of Mental Health	
Director, Department of Mental Health	1486
Department of Public Safety	
Missouri Gaming Commission	1490
Department of Revenue	
Director of Revenue	1494
Department of Health and Senior Services	
Division of Regulation and Licensure	1495
Department of Insurance, Financial Institutions and Professional Registration	
Life, Annuities and Health	1565

ORDERS OF RULEMAKING

Office of Administration	
Commissioner of Administration	1567
Department of Conservation	
Conservation Commission	1567
Department of Insurance, Financial Institutions and Professional Registration	
Missouri State Board of Accountancy	1571

Department of Mental Health

Division of Mental Retardation and Developmental Disabilities	1575
---	------

Department of Natural Resources

Air Conservation Commission	1583
-----------------------------	------

Department of Public Safety

Missouri Gaming Commission	1587
----------------------------	------

Department of Revenue

Director of Revenue	1587
---------------------	------

Department of Social Services

Division of Medical Services	1588
------------------------------	------

IN ADDITIONS

Department of Transportation

Missouri Highways and Transportation Commission	1589
---	------

CONTRACTOR DEBARMENT LIST

DISSOLUTIONS

SOURCE GUIDES

RULE CHANGES SINCE UPDATE	1595
EMERGENCY RULES IN EFFECT	1604
EXECUTIVE ORDERS	1605
REGISTER INDEX	1608

Register Filing Deadlines	Register Publication Date	Code Publication Date	Code Effective Date
July 3, 2006 July 17, 2006	August 1, 2006 August 15, 2006	August 31, 2006 August 31, 2006	September 30, 2006 September 30, 2006
August 1, 2006 August 15, 2006	September 1, 2006 September 15, 2006	September 30, 2006 September 30, 2006	October 30, 2006 October 30, 2006
September 1, 2006 September 15, 2006	October 2, 2006 October 16, 2006	October 31, 2006 October 31, 2006	November 30, 2006 November 30, 2006
October 2, 2006 October 16, 2006	November 1, 2006 November 15, 2006	November 30, 2006 November 30, 2006	December 30, 2006 December 30, 2006
November 1, 2006 November 15, 2006	December 1, 2006 December 15, 2006	December 31, 2006 December 31, 2006	January 30, 2007 January 30, 2007
December 1, 2006 December 15, 2006	January 2, 2007 January 16, 2007	January 29, 2007 January 29, 2007	February 28, 2007 February 28, 2007
January 2, 2007 January 16, 2007	February 1, 2007 February 15, 2007	February 28, 2007 February 28, 2007	March 30, 2007 March 30, 2007
February 1, 2007 February 15, 2007	March 1, 2007 March 15, 2007	March 31, 2007 March 31, 2007	April 30, 2007 April 30, 2007
March 1, 2007 March 15, 2007	April 2, 2007 April 16, 2007	April 30, 2007 April 30, 2007	May 30, 2007 May 30, 2007
April 2, 2007 April 16, 2007	May 1, 2007 May 15, 2007	May 31, 2007 May 31, 2007	June 30, 2007 June 30, 2007

Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.mo.gov/adrules/pubsched.asp>

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Washington University Washington University Law Library Campus Box 1171, Mudd Bldg., One Brookings Dr. St. Louis, MO 63130-4899 (314) 935-6443	Kansas City Public Library 14 West 10th Street Kansas City, MO 64105 (816) 701-3546	Library State Historical Society of Missouri 1020 Lowry St. Columbia, MO 65211-7298 (573) 882-9369	Springfield-Greene County Library 4653 S. Campbell Springfield, MO 65801-0760 (417) 874-8110
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HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—The most recent version of the statute containing the section number and the date.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

[Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT]

[Division 232—Missouri State Committee of
Interpreters]

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL
REGISTRATION

Division 2232—Missouri State Committee of Interpreters
Chapter 2—Licensure Requirements

EMERGENCY RULE

[4 CSR 232-2.040] 20 CSR 2232-2.040 Certifications
Recognized by the Board

PURPOSE: This rule allows applicants with certain national certifications to become licensed in Missouri.

EMERGENCY STATEMENT: This emergency rule is necessary to preserve a compelling governmental interest requiring an early effective date of the rule to allow the committee to license interpreters who hold certification issued jointly by organizations that previously issued certification independently. The certifications issued individually by the National Association of the Deaf (NAD) and the Registry for Interpreters for the Deaf, Inc., are recognized as a matter of statute, section 209.323, RSMo Supp. 2005. At its meeting on June 26, 2006, the board learned that these organizations were to begin

doing business as NAD-RID National Interpreter Certification, and issuing certifications equivalent to those recognized by the statute but with different names, on July 1, 2006. The emergency rule is necessary to allow the board to issue a license to those applicants who obtain such certifications pending ordinary adoption of an appropriate rule, otherwise communication between members of the deaf community and the general public will be impaired, endangering the health, safety and welfare of individuals and the general public. The board has concurrently filed an identical proposed new rule with the Secretary of State's Office and the Joint Committee on Administrative Rules, which will appear in the October 2, 2006, *Missouri Register* and will not become effective until at least March 31, 2007.

The scope of the emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. In developing this emergency rule, the board encouraged discussion of the new examination at its open meetings and provided the public the opportunity to offer their comments at that time. The board believes this emergency rule to be fair to all interested parties under the circumstances. This emergency rule was filed August 22, 2006, effective September 1, 2006, expires February 27, 2007.

(1) In addition to the certificates specified in section 209.322, RSMo, the following licenses and certifications are recognized as qualifying credentials for an initial license, renewal license or temporary license:

(A) Certification issued by the National Association of the Deaf (NAD) and the Registry of Interpreters for the Deaf, Inc. (RID), doing business as NAD-RID National Interpreter Certification, c/o RID, Inc., 333 Commerce Street, Alexandria, VA 22314, as follows:

1. National Interpreter Certification (NIC);
2. NIC Advanced; and
3. NIC Master.

AUTHORITY: section 209.328.2(3), RSMo 2000. Emergency rule filed Aug. 22, 2006, effective Sept. 1, 2006, expires Feb. 27, 2007. A proposed rule covering this same material is published in this issue of the *Missouri Register*.

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2005.

EXECUTIVE ORDER 06-30

WHEREAS, severe storms causing significant damage to areas in the east central part of the State of Missouri, including St. Louis City and St. Louis County, occurred on July 19 and July 21, 2006, resulting in a massive cleanup of debris from downed or damaged trees and other structures; and

WHEREAS, Executive Order 06-25 was issued on July 20, 2006, declaring a State of Emergency within the State of Missouri; and

WHEREAS, Executive Order 06-27 was issued on July 21, 2006, authorizing the Director of the Missouri Department of Natural Resources to temporarily waive or suspend the operation of statutory or administrative rules or regulations in order to expedite the cleanup and recovery process; and

WHEREAS, in response to Executive Order 06-27, the Director of the Missouri Department of Natural Resources issued a waiver on July 21, 2006, easing restrictions on the placement of yard waste in landfills to aid in the debris cleanup; and

WHEREAS, several communities in the east central part of the State of Missouri are still clearing debris resulting from the July 2006 storms;

WHEREAS, Executive Orders 06-25 and 06-27 expire on August 19, 2006 unless extended in whole or in part.

NOW THEREFORE, I, Matt Blunt, Governor of the State of Missouri, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, hereby extend the declaration of emergency contained in Executive Order 06-25 and the terms of Executive Order 06-27 through September 22, 2006, for the purpose of continuing the cleanup efforts in the east central part of the State of Missouri.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 18th day of August, 2006.

A handwritten signature in black ink, reading "Matt Blunt". The signature is written in a cursive style with a large, stylized "M" and "B".

Matt Blunt
Governor

ATTEST:

A handwritten signature in black ink, reading "Robin Carnahan". The signature is written in a cursive style with a large, stylized "R" and "C".

Robin Carnahan
Secretary of State

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbolology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety (90)-day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

*[Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT]*

[Division 220—State Board of Pharmacy]

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 220—State Board of Pharmacy
Chapter 2—General Rules**

PROPOSED AMENDMENT

*[4 CSR 220-2.010] 20 CSR 2220-2.010 Pharmacy Standards of
Operation.* The board proposes to add section (9).

PURPOSE: This amendment sets forth minimum standards of practice for Class I: Consultant Pharmacies located within a residence.

(9) **Class I: Consultant Pharmacies** as defined in 20 CSR 2220-2.020(9)(I) and are approved by the board to be located within a residence shall be required to address and comply with the following minimum standards of practice:

(A) Location Requirements—

1. The pharmacy must be located in a separate room that provides for a door with a lock approved by the board;

2. Sufficient storage for securing confidential documents and any hardware used in accessing a central pharmacy by electronic connection must be provided;

3. Ceiling and walls must be constructed of plaster, drywall, brick or other substantial substance that affords a design that makes the room separate and distinct from the remainder of the domicile. Drop down ceilings that allow access into the room are not allowed; and

4. All locations must be inspected and have approval by the board prior to the initiation of services;

(B) Documentation—

1. Maintain a current policy and procedure manual that is attested by the signature and date of review of the pharmacist-in-charge to its accuracy. All pharmacists employed and located at the pharmacy shall be required to sign the manual attesting to their review and understanding of all policies and procedures in force;

2. Maintain documentation that the pharmacist-in-charge or the permit holder has provided training to all personnel on all operations associated with the pharmacy; and

3. The permit holder must complete an audit of transactions completed by the pharmacy at a minimum of twice per year, through physical visits by representatives of the permit holder or by electronic means. Audit results must be maintained by the supervising (central) pharmacy for a period of three (3) years;

(C) Security—Records—

1. All electronic data processing systems used by the pharmacy to access another pharmacy's confidential data/information system must be void of any permanent storage capability;

2. Electronic data processing hardware, if used to access another pharmacy's record system, must be dedicated to a specific Class I: Consultant Pharmacy location;

3. Any exterior ports located on hardware of a data processing system must be made inoperable;

4. There must be a password enabled screensaver for all electronic data processing systems and the screen of any systems must be positioned away from all room entrances; and

5. No electronic or hard copy records shall be maintained on a permanent basis;

(D) Security—Internet—

1. System sign-on capability shall include a sequence involving a secure identification of the user with proper virtual private network (VPN) authentication that creates an encrypted connection;

2. Passwords and secure identification (ID) tokens must be maintained in order to ensure access only by authorized personnel;

3. The electronic data system must provide for an automatic time-out after any short period (less than five (5) minutes) of inactivity. The system must then provide for a re-log on process when any time-out situation occurs;

4. The electronic data system must operate within a dedicated connection system. If electronic mail is utilized, the capability of the system shall be limited to only the receipt of electronic mail and;

5. Software that is utilized by the pharmacy shall maintain up-to-date virus and anti-spyware protection; and

(E) Licensure and Inspection—

1. Each location must maintain and display a current Class I pharmacy permit;

2. Routine inspections for in-state pharmacies shall be arranged ahead of time. Notification by the inspector to either the permit holder or the pharmacist-in-charge will be provided a minimum of seventy-two (72) hours ahead of the scheduled inspection. The permit holder must arrange for a separate witness to be present that is not a resident of the location under inspection;

3. A pharmacy located outside the state must maintain a pharmacist-in-charge with a current and active pharmacist license with the state of Missouri;

4. The audits required in paragraph (9)(B)3. shall be available and provided to the board when requested. Compliance with this paragraph requires requested records to be produced within seven (7) business days of the request; and

5. The pharmacy shall provide copies of inspections completed by the state in which they are located if such inspections are required within seven (7) business days of the inspection date.

AUTHORITY: sections 338.010, 338.140, 338.240 and 338.280, RSMo 2000 and 338.210, RSMo Supp. [2004] 2005. Original rule filed July 18, 1962, effective July 28, 1962. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 21, 2006.

PUBLIC COST: This proposed amendment will cost state agencies and political subdivisions approximately three thousand four hundred fifty-four dollars and fifty-one cents (\$3,454.51) annually for the life of the rule with a continuous annual increase of fifty-two dollars and twenty-six cents (\$52.26). Additionally, this proposed amendment will cost approximately two thousand six hundred eighty-seven dollars and fifteen cents (\$2,687.15) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: The proposed amendment will cost private entities approximately eighteen thousand eight hundred ninety-four dollars and fifty cents (\$18,894.50) annually with a continuous annual increase of three hundred two dollars and eighty-nine cents (\$302.89) for the life of the rule. Additionally, this proposed amendment will cost private entities approximately thirty-seven thousand three hundred four dollars (\$37,304) biennially with a continuous biennial increase of one thousand ninety-two dollars and sixteen cents (\$1,092.16). It is anticipated that the costs will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Pharmacy, PO Box 625, Jefferson City, MO 65102, via facsimile to (573) 526-3464 or email at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PUBLIC ENTITY FISCAL NOTE**I. RULE NUMBER****Title 4 -Department of Economic Development****Division 220 - Missouri Board of Pharmacy****Chapter 2 - General Rules****Proposed Amendment - 4 CSR 220-2.010 Pharmacy Standards of Operation**

Prepared June 20, 2006 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Missouri Board of Pharmacy	\$3,454.51
Total Annual Cost of Compliance for the Life of the Rule with a Continuous Annual Increase of \$52.26	
	\$3,454.51

Affected Agency or Political Subdivision	Estimated Biennial Cost of Compliance
Missouri Board of Pharmacy	\$2,687.15
Total Biennial Cost of Compliance for the Life of the Rule	
	\$2,687.15

III. WORKSHEET**FIRST YEAR OF IMPLEMENTATION OF THE RULE**

Based on FY06 actuals, 8 active pharmacies currently hold the Class I classification, or combination of Class I and other classifications. This amendment only affects those pharmacies with this classification. For purposes of this fiscal note, it is estimated that approximately 50 entities will apply for a pharmacy permit with this classification per year. The board anticipates an annual growth rate of 1% in the number of applications received annually.

The figures below represent the expense and equipment costs:

CLASSIFICATION	Fee Amount	Number in Class	AGGREGATE COST
Letterhead	\$0.15	50	\$7.50
Envelope for Mailing Correspondence	\$0.03	50	\$1.50
Postage for Mailing Correspondence	\$0.39	50	\$19.50
Printing and Mailing of License	\$0.32	50	\$16.00
Total expense and equipment costs			\$44.50

The figures below represent the personal service costs:

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	COST PER APPLICATION	TOTAL COST
Licensure Technician I	\$20,904	\$31,124	\$14.96	\$0.25	\$11.22	\$561.13
Pharmaceutical Consultant	\$73,836	\$109,934	\$52.85	\$0.88	\$52.85	\$2,642.65
Executive Director	\$69,144	\$102,949	\$49.49	\$0.82	\$4.12	\$206.23
Total personal service costs						\$3,410.01

BIENNIAL EXPENSES

The figures below represent the expense and equipment costs for the renewal applications:

CLASSIFICATION	Fee Amount	Number in Class	AGGREGATE COST
Letterhead	\$0.15	50	\$7.50
Envelope for Mailing Correspondence	\$0.03	50	\$1.50
Postage for Mailing Correspondence	\$0.39	50	\$19.50
Printing and Mailing of License	\$0.32	50	\$16.00
Total expense and equipment costs			\$44.50

The figures below represent the personal service costs:

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	COST PER RENEWAL	TOTAL COST
Pharmaceutical Consultant	\$73,836	\$109,934	\$52.85	\$0.88	\$52.85	\$2,642.65
Total personal service costs						\$2,642.65

IV. ASSUMPTIONS

1. The division's central processing unit will process the renewal applications. No cost are being calculated for the processing of the 50 additional renewal applications as the board believes the additional cost will be minimal.
2. Employee's salaries were calculated using their annual salary multiplied by 48.89% for fringe benefits and then were divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications. The total cost was based on the cost per application multiplied by the estimated number of applications.
3. The board anticipates the staff will perform the following duties:
 Licensure Technician I - Review and process applications, update division licensing system, preparing correspondence, set up inspection with pharmaceutical consultant, issue permit, mail license, and prepare documents for optical imaging. (45 minutes per application)
 Pharmaceutical Consultant - conduct initial and routine follow up inspections. (1 hour for initial inspection/2 hours for routine inspections)
 Executive Director - Review and approval of application. (5 minutes per application)
4. The total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

PRIVATE ENTITY FISCAL NOTE**I. RULE NUMBER****Title 4 -Department of Economic Development****Division 220 - Missouri Board of Pharmacy****Chapter 2 - General Rules****Proposed Amendment - 4 CSR 220-2.010 Pharmacy Standards of Operation**

Prepared June 20, 2006 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT**Annual Costs**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated annual cost of compliance with the amendment by affected entities:
50	Applicants (initial application @ \$250)	\$12,500.00
50	Applicants (notary @ \$2.50)	\$125.00
50	Applicants (postage @ \$.39)	\$19.50
50	Applicants (lock for door @ \$25)	\$1,250.00
50	Applicants (locking storage cabinet @ \$100)	\$5,000.00
Estimated Annual Cost for the Life of the Rule with an Annual Growth Rate of \$302.89		\$18,894.50

Biennial Costs

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated biennial cost of compliance with the amendment by affected entities:
50	Licensees (renewal application @ \$400)	\$20,000.00
50	Licensees (biannual audit @ \$346.08)	\$17,304.00
Estimated Biennial Cost for the Life of the Rule with a Continuous Biennial Increase of \$1,092.16		\$37,304.00

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. Based on FY06 actuals, 8 active pharmacies currently hold the Class I classification, or combination of Class I and other classifications. This amendment only affects those pharmacies with this classification. For purposes of this fiscal note, it is estimated that approximately 50 entities will apply for a pharmacy permit with this classification per year. The board anticipates an annual growth rate of 1% in the number of applications received annually.
2. In addition to initial application and biennial renewal costs, the applicant/permit holder may incur initial costs involving construction and/or remodeling of his residence to comply with the requirements of subsection (9)(A), which involves a locking door, ceiling and walls constructed of plaster, drywall, brick or other substantial substance. Construction and remodeling costs will vary depending on the size of the room, the pharmacy location (rural vs. metropolitan), union vs. non-union labor, cost of building materials, to what extent remodeling is required, etc., therefore, an aggregate amount is not be calculated in this fiscal note. However, for purposes of this fiscal note, it is estimated that a lock for a door will cost \$25, and construction costs to be an average of \$150 per square foot.
3. Paragraph (9)(B)(D) requires an audit of transactions completed by the pharmacy at least twice per year, therefore, for purposes of this fiscal note, it is estimated that an audit will require approximately two hours of work and will be conducted by a licensed pharmacist whose annual salary is approximately \$90,000 ($\$90,000 / 2,080$ work hours per year = \$43.27 per hour) = \$86.54 X 2 audits per year = \$173.08 per pharmacy per year for auditing.
4. Subsections (9)(C) and (9)(D) require acquisition and maintenance of a very protected network, multi-layer security system, an encrypted software system, and virus/spy ware software. The board is unable to estimate aggregate costs associated with these requirements because too many unknown factors are involved, too many variances in existing computer systems at pharmacies and what additionally would be required in order to comply with this amendment. Thus, the board is not able to provide an estimate of costs involved with this aspect of this amendment.
5. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of Chapter 338, RSMo. Pursuant to Section 338.070, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 338, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 338, RSMo.

*[Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT]**[Division 220—State Board of Pharmacy]***Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION****Division 2220—State Board of Pharmacy
Chapter 2—General Rules****PROPOSED AMENDMENT**

[4 CSR 220-2.020] 20 CSR 2220-2.020 Pharmacy Permits. The board proposes to amend subsections (9)(D) and (9)(H) and add subsection (9)(K).

PURPOSE: *This amendment clarifies the definition and criteria for the Class D Pharmacy classification and provides a definition for Class K: Internet pharmacies.*

(9) The following classes of pharmacy permits or licenses are hereby established:

(D) Class D: Non-Sterile Compounding. A pharmacy that provides services as defined in section 338.010, RSMo and provides a non-sterile compounded product as defined in *[4 CSR 220-2.400] 20 CSR 2220-2.400(1) [which comprises five percent (5%) or more of the annual prescription volume of the pharmacy;]* and meets one (1) of the following criteria:

1. A product which will act systemically, regardless of the route of administration, and is prepared from bulk ingredients; or

2. Any product that is produced in a batch quantity as defined in *20 CSR 2220-2.400(3)*.

(H) Class H: Sterile Product Compounding. A pharmacy that provides services as defined in section 338.010, RSMo and provides a sterile pharmaceutical as defined in *[4 CSR 220-2.200] 20 CSR 2220-2.200(11)(I)* and (AA). Pharmacies providing sterile pharmaceuticals within the exemptions outlined in *[4 CSR 220-2.200] 20 CSR 2220-2.200(25)* shall not be considered a Class H pharmacy;

(I) Class I: Consultant. A location where any activity defined in section 338.010, RSMo is conducted, but which does not include the procurement, storage, possession or ownership of any drugs from the location; *[and]*

(J) Class J: Shared Service. A pharmacy that provides services as defined in section 338.010, RSMo, and is involved in the processing of a request from another pharmacy to fill or refill a prescription drug order, or that performs or assists in the performance of functions associated with the dispensing process, drug utilization review (DUR), claims adjudication, refill authorizations and therapeutic interventions~~/.~~; and

(K) Class K: Internet. A pharmacy that provides services as defined in section 338.010, RSMo, and is involved in the receipt, review, preparation, compounding, dispensing or offering for sale any drugs, chemicals, medicines or poisons for any prescription originating from the Internet. A prescription must be provided by a practitioner licensed in the United States authorized by law to prescribe drugs and who has performed a sufficient physical examination and clinical assessment of the patient.

AUTHORITY: *sections 338.140 and 338.280, RSMo 2000 [and 338.220, RSMo Supp. 2004]. Original rule filed July 18, 1962, effective July 28, 1962. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 21, 2006.*

PUBLIC COST: *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Pharmacy, PO Box 625, Jefferson City, MO 65102, via facsimile to (573) 526-3464 or email at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

*[Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT]**[Division 220—State Board of Pharmacy]***Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION****Division 2220—State Board of Pharmacy
Chapter 2—General Rules****PROPOSED AMENDMENT**

[4 CSR 220-2.025] 20 CSR 2220-2.025 Nonresident Pharmacies. The board is proposing to add a new section (2) and renumber sections thereafter.

PURPOSE: *This amendment requires pharmacists at nonresident pharmacies to be licensed by the board if they have access to pharmacy databases of a pharmacy located in Missouri.*

(2) When access to the pharmacy database of a pharmacy located within this state is made available, any pharmacist utilizing the database and to provide services as defined in section 338.010, RSMo must be licensed by the state of Missouri. As used in this section, access means the ability to retrieve, review and execute changes or edits to the permanent records of a licensed pharmacy located within the state of Missouri.

[[2]] (3) To obtain a license as a pharmacy, a nonresident pharmacy must comply with each of the following:

(A) Maintain a license in good standing from the state in which the nonresident pharmacy is located;

(B) Submit an application as provided by the Missouri Board of Pharmacy for licensure in compliance with *[4 CSR 220-2.020] 20 CSR 2220-2.020(2)* and (3);

(C) Pay all appropriate licensing fees;

(D) Submit a copy of the state pharmacy license from the state in which the nonresident pharmacy is located; and

(E) Submit a copy of the state and federal controlled substance registrations from the state in which it is located, if controlled substances are to be shipped into Missouri.

[[3]] (4) When requested to do so by the Missouri Board of Pharmacy, each nonresident pharmacy shall supply any inspection reports, warning notices, notice of deficiency reports or any other related reports from the state in which it is located concerning the operation of a nonresident pharmacy for review of compliance with state and federal drug laws.

[[4]] (5) The Missouri Board of Pharmacy will extend reciprocal cooperation to any state that licenses and regulates nonresident pharmacies for the purpose of investigating complaints against pharmacies located in Missouri or the sharing of information and investigative reports, as long as the other state will extend the same reciprocal cooperation to the Missouri Board of Pharmacy.

AUTHORITY: sections 338.140 and 338.280, RSMo 2000 and 338.220, RSMo Supp. [2001] 2005. Original rule filed Jan. 16, 1990, effective May 11, 1990. Amended: Filed June 28, 2002, effective Jan. 30, 2003. Amended: Filed Aug. 21, 2006.

PUBLIC COST: This proposed amendment will cost state agencies and political subdivisions approximately five hundred fifty-five dollars and forty-four cents (\$555.44) annually for the life of the rule with a continuous annual increase of twenty-two dollars and twenty-one cents (\$22.21). It is anticipated that the costs will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will cost private entities approximately twenty-two thousand two hundred twenty-one dollars (\$22,221) annually for the life of rule. It is anticipated that the costs will recur annually for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Pharmacy, PO Box 625, Jefferson City, MO 65102, via facsimile to (573) 526-3464 or email at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PUBLIC ENTITY FISCAL NOTE**I. RULE NUMBER****Title 4 -Department of Economic Development****Division 220 - Missouri Board of Pharmacy****Chapter 2 - General Rules****Proposed Amendment - 4 CSR 220-2.025 Nonresident Pharmacies**

Prepared June 20, 2006 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Missouri Board of Pharmacy	\$555.44
Total Annual Cost of Compliance for the Life of the Rule with a Continuous Annual Increase of \$22.21	
	\$555.44

III. WORKSHEET**FIRST YEAR OF IMPLEMENTATION OF THE RULE**

The figures below represent the expense and equipment costs:

CLASSIFICATION	Fee Amount	Number in Class	AGGREGATE COST
Letterhead (2 sheets)	\$0.30	25	\$7.50
Envelope for Mailing Correspondence	\$0.03	25	\$0.75
Postage for Mailing Correspondence	\$0.39	25	\$9.75
Printing and Mailing of Permit/License	\$0.64	25	\$16.00
Total expense and equipment costs			\$34.00

The figures below represent the personal service costs:

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	COST PER APPLICATION	TOTAL COST
Licensure Technician I	\$23,376	\$34,805	\$16.73	\$0.28	\$16.73	\$418.32
Executive Director	\$69,144	\$102,949	\$49.49	\$0.82	\$4.12	\$103.11
Total personal service costs						\$521.44

IV. ASSUMPTIONS

1. Based on FY03-FY06 actuals, the board estimates approximately 25 applications will be received during the first year of implementation of the rule with a continue annual growth rate of 1 application.
2. Employee's salaries were calculated using their annual salary multiplied by 48.89% for fringe benefits and then were divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications. The total cost was based on the cost per application multiplied by the estimated number of applications.

3. The board anticipates the staff will perform the following duties:

Licensure Technician I - Review and process licensure application; prepare and mail acknowledgement letter to applicant; update division's licensing system; monitor and process receipt and return of fax from/to national association which requests approval for the applicant to test; monitor and process receipt of examination score via internet; issue temporary license; issue and mail original license.(1 hour per application)
Executive Director - Review and approval of application. (5 minutes per application)

4. The total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

PRIVATE ENTITY FISCAL NOTE**I. RULE NUMBER****Title 4 -Department of Economic Development****Division 220 - Missouri Board of Pharmacy****Chapter 2 - General Rules****Proposed Amendment - 4 CSR 220-2.025 Nonresident Pharmacies**

Prepared June 20, 2006 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT**Annual Costs**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated annual cost of compliance with the amendment by affected entities:
25	Applicants (National Association Preliminary Application Form @ \$300)	\$7,500.00
25	Applicants (National Association Registration Fee @ \$185)	\$4,625.00
25	Applicants (National Association Finalized Application Fee @ \$350)	\$8,750.00
25	Applicants (Identix Fingerprinting Service Fee @ \$50.95)	\$1,273.75
25	Applicants (notary @ \$2.50)	\$62.50
25	Applicants (postage @ \$.39)	\$9.75
	Estimated Annual Cost for the Life of the Rule	\$22,221.00

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. For the purpose of this fiscal note, the board is estimating 25 applications will be received annually.
2. The various fees estimated above are paid directly to the board, the national association and Identix.
3. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of Chapter 338, RSMo. Pursuant to Section 338.070, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 338, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 338, RSMo.

*[Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT]
[Division 220—State Board of Pharmacy]
Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2220—State Board of Pharmacy
Chapter 2—General Rules*

PROPOSED AMENDMENT

[4 CSR 220-2.190] 20 CSR 2220-2.190 Patient Counseling. The board is proposing to amend section (1).

PURPOSE: This amendment establishes patient counseling requirements when an automated dispensing machine is used to provide medication to patients.

(1) Upon receipt of a prescription drug order and following a review of the available patient information, a pharmacist or his/her designee shall personally offer to discuss matters which will enhance or optimize drug therapy with each patient or caregiver of each patient. Counseling shall be conducted by the pharmacist or a pharmacy extern under the pharmacist's immediate supervision to allow the patient to safely and appropriately utilize the medication so that maximum therapeutic outcomes can be obtained. If the patient or caregiver is not available, then a written offer to counsel with a telephone number of the dispensing pharmacy at no cost to the patient must be supplied with the medication so that the patient or caregiver may contact the pharmacist for counseling when necessary. **In situations where automated pick-up systems are used for providing refill prescriptions to patients, the offer to counsel may be provided within the information provided by the kiosk to the patient during the processing phase prior to release of the medication to the patient.** The elements of counseling shall include matters which the pharmacist deems significant in the exercise of his/her professional judgment and is consistent with applicable state laws.

AUTHORITY: sections [338.010.1 and 338.015.2, RSMo Supp. 1990,] 338.140 [Supp. 1989] and 338.280, RSMo [1986] 2000. Original rule filed May 1, 1992, effective Feb. 26, 1993. Amended: Filed March 4, 1993, effective Oct. 10, 1993. Amended: Filed Aug. 21, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Pharmacy, PO Box 625, Jefferson City, MO 65102, via facsimile to (573) 526-3464 or email at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

*[Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT]
[Division 220—State Board of Pharmacy]
Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2220—State Board of Pharmacy
Chapter 2—General Rules*

PROPOSED AMENDMENT

[4 CSR 220-2.450] 20 CSR 2220-2.450 Fingerprint Requirements. The board is proposing to add subsection (1)(G), delete section (2), renumber remaining sections, and amend the newly renumbered section (4).

PURPOSE: This amendment requires owners of drug distributors to provide criminal history background information to the board.

(1) Applicants for licensure or registration that must provide fingerprints to the Board of Pharmacy shall include:

(E) Drug distributor license manager-in-charge (unless currently licensed as a pharmacist in the state of Missouri); *[and]*

(F) Pharmacy technician~~[/];~~ **and**

(G) Owners with a ten percent (10%) or more interest in a drug distributor entity (applying to non-publicly held companies only).

[(2) No application shall be considered complete without two (2) sets of fingerprints and the required fingerprinting fee.]

[(3)] (2) Information collected under this background review will be held as confidential in accordance with state and federal laws governing the dissemination of criminal history information.

[(4)] (3) Any application which is found to contain incomplete, inaccurate or false statements shall be deemed null and void. Any license or registration issued under such circumstances shall be considered a license or registration issued under the pretense of fraud, deception or misrepresentation and the board may file a complaint with the Administrative Hearing Commission to revoke or discipline the license or registration.

[(5)] (4) The board may, in the course of an investigation of a licensee, require that *[two (2) sets of]* fingerprints be submitted for a background check as provided for in this rule.

AUTHORITY: sections [338.185 and] 338.280 [RSMo 1994] and [338.013,] 338.140 [and 338.350], RSMo [Supp. 1997] 2000. Original rule filed Jan. 6, 1997, effective July 30, 1997. Amended: Filed April 23, 1998, effective Nov. 30, 1998. Amended: Filed Aug. 21, 2006.

PUBLIC COST: This proposed amendment will cost state agencies and political subdivisions approximately three hundred forty-five dollars and sixty-seven cents (\$345.67) annually for the life of the rule with a continuous annual increase of twenty-two dollars and twenty-one cents (\$22.21). It is anticipated that the costs will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will cost private entities approximately five thousand ninety-five dollars (\$5,095) for the life of rule with a continuous annual increase of five hundred nine dollars and fifty cents (\$509.50). It is anticipated that the costs will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Pharmacy, PO Box 625, Jefferson City, MO 65102, via facsimile to (573) 526-3464 or email at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

PUBLIC ENTITY FISCAL NOTE**I. RULE NUMBER****Title 4 -Department of Economic Development****Division 220 - Missouri Board of Pharmacy****Chapter 2 - General Rules****Proposed Amendment - 4 CSR 220-2.450 Fingerprinting Requirements**

Prepared June 20, 2006 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Missouri Board of Pharmacy	\$345.67
Total Annual Cost of Compliance for the Life of the Rule with a Continuous Annual Increase of \$22.21	
	\$345.67

III. WORKSHEET**FIRST YEAR OF IMPLEMENTATION OF THE RULE**

The board is unable to specifically determine the number of applicants that this rule amendment will impact; however, an estimate of approximately 50 non-publicly held drug distributor applications to be received per year.

The figures below represent the personal service costs:

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	COST PER APPLICATION	TOTAL COST
Licensure Technician I	\$23,376	\$34,805	\$16.73	\$0.28	\$2.79	\$139.44
Executive Director	\$69,144	\$102,949	\$49.49	\$0.82	\$4.12	\$206.23
Total personal service costs						\$345.67

IV. ASSUMPTIONS

- Based on FY03-FY06 actuals, the board estimates approximately 50 applications will be will received annually.
- Employee's salaries were calculated using their annual salary multiplied by 48.89% for fringe benefits and then were divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications. The total cost was based on the cost per application multiplied by the estimated number of applications.
- The board anticipates the staff will perform the following duties:
Licensure Technician I - Review and process drug distributor licensure application; and issue and mail license (10 minutes)
Executive Director - Review and approval of application. (5 minutes per application)
- The total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

PRIVATE ENTITY FISCAL NOTE

I. RULE NUMBER

Title 4 -Department of Economic Development

Division 220 - Missouri Board of Pharmacy

Chapter 2 - General Rules

Proposed Amendment - 4 CSR 220-2.450 Fingerprinting Requirements

Prepared June 20, 2006 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Annual Costs

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated annual cost of compliance with the amendment by affected entities:
100	Licensees (Identix Fingerprinting Fee @ \$50.95)	\$5,095.00
Estimated Annual Cost for the Life of the Rule with a Continuous Annual Increase of \$509.50		\$5,095.00

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. For the purpose of this fiscal note, the board estimates approximately 50 non-publicly held drug distributor applications will received per year and an average of two (2) owners per application twill incur an Identix fingerprinting fee of \$50.95. The board anticipates a continuous growth rate of 10%.
2. The fees estimated above are paid directly Identix. Applicants are required to schedule an appointment with Identix to be fingerprinted. Due to the varying locations of the Identix office and the location of the application, costs were not calculated in this fiscal note for travel expenses.
3. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

[Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT]

[Division 220—State Board of Pharmacy]

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL
REGISTRATION

Division 2220—State Board of Pharmacy

Chapter 2—General Rules

PROPOSED AMENDMENT

[4 CSR 220-2.900] 20 CSR 2220-2.900 **Automated Dispensing and Storage Systems.** The board is proposing to amend sections (1) and (2).

PURPOSE: This amendment provides guidelines for automated refill patient self-service devices.

(1) Automated dispensing and storage systems (hereafter referred to as automated system or system) are hereby defined to include, but are not limited to, mechanical systems that perform operations or activities, relative to the storage, packaging or dispensing of medications, and which collect, control, and maintain all transaction information. Such systems may be used in pharmacies and where a pharmacy permit exists, for maintaining patient care unit medication inventories or for a patient profile dispensing system, provided the utilization of such devices is under the supervision of a pharmacist. A pharmacist is not required to be physically present at the site of the automated pharmacy system if the system is supervised electronically by a pharmacist. In order to supervise the system **within an ambulatory care setting**, the pharmacist must maintain constant visual and auditory communication with the site and full control of the automated system must be maintained by the pharmacist and shall not be delegated to any other person or entity. **Supervision of an automated refill patient self-service device requires that a pharmacist employed by the pharmacy by which the device is owned and operated be available at all times during operating hours of the pharmacy or telephonically after hours to fulfill any patient counseling as required by law.**

(E) Automated systems shall maintain adequate security systems and procedures to prevent unauthorized access or use and shall at all times maintain compliance with all state and federal drug laws including all controlled substance requirements and patient confidentiality laws.

1. Any remote automated system that stocks controlled substances must maintain a perpetual inventory from each site.

2. Automated systems in ambulatory care settings must be located in an area that will provide adequate space for private consultations to occur and must only be installed within the same area utilized by the prescriber for the provision of clinical services.

3. **Automated refill patient self-service devices must be physically attached to the pharmacy so that access to areas used to restock the device are only accessible through the pharmacy physical plant by pharmacy personnel.**

(J) Drugs that are repackaged for use in automated systems **at remote locations** must comply with [4 CSR 220-2.130] 20 CSR 2220-2.130 Drug Repackaging requirements. **Automated refill patient self-service devices must comply with all labeling and dispensing laws governing the provision of medication refills to patients. Products that are considered temperature sensitive or products that require further manipulation in order to be ready for use by a patient shall not be provided through patient self-service devices, unless the device has the capability to provide storage conditions in compliance with Federal Drug Administration (FDA) requirements.**

(K) If an automated system uses removable cartridges or containers to hold drugs, the prepackaging of the cartridges or containers must occur at the pharmacy where the original inventory is maintained unless provided by a [Federal Drug Administration (FDA)] FDA approved repackager and who is licensed as a drug distributor. The prepackaged cartridges or containers may be sent to the automated system **at remote locations** to be loaded into the machine by registered technicians under the supervision of a pharmacist or by a pharmacist provided that—

1. A pharmacist has verified the container has been properly filled and labeled;

2. The individual containers are transported to the automated system in a secure, tamper-evident container; and

3. The automated system utilizes technologies to ensure that the containers are accurately loaded in the automated system.

(L) Any pharmacy that maintains an automated system for remote dispensing to ambulatory patients must maintain a video camera and audio system to provide for effective communication between pharmacy personnel and consumers. It must be a system that will allow for the appropriate exchange of oral as well as written communications to facilitate patient counseling as provided in [4 CSR 220-2.190] 20 CSR 2220-2.190 and other matters involved in the correct transaction or provision of drugs.

1. Video monitors used for the proper identification and communication with persons receiving prescription drugs shall be a minimum of twelve inches (12") wide and provided at both the pharmacy and remote location for direct visual contact between pharmacist and patient.

2. Both the video monitor and the audio system must be in good working order or operations utilizing the automated system shall cease until appropriate corrections or repairs are made to the system(s).

3. Backlighting or other factors that may inhibit video or audio performance must be taken into account when using such systems to identify recipients of prescription drugs. Positive identification of recipients must be made before any drug is delivered.

(2) Each automated system shall maintain a manual of policies and procedures that, at a minimum, shall include the following:

(A) System operations that include specific and measurable accountability for safety, security, accuracy, patient confidentiality, access, data retention and retrieval, downtime procedures, emergency [or] first dose **or refill patient self-service** procedures, inspection of systems by pharmacy personnel, installation requirements, maintenance, medication security, quality assurance, inventory levels and control, staff education and training and system set-up and malfunction.

(B) Documentation by the automated system **at remote locations** for on-site patient administration and remote dispensing of medications that includes specific identification of patients, medications used along with dates and times the system is utilized.

AUTHORITY: sections 338.210 and 338.220, RSMo Supp. [2002] 2005 and 338.140 and 338.280, RSMo 2000. Original rule filed Nov. 1, 2000, effective June 30, 2001. Amended: Filed Feb. 18, 2003, effective Sept. 30, 2003. Amended: Filed Aug. 21, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities approximately seven hundred fifty thousand dollars (\$750,000) for the life of the rule with a continuous annual increase of thirty thousand dollars (\$30,000). It is anticipated that the costs will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Pharmacy, PO Box 625, Jefferson City, MO 65102, via facsimile to (573) 526-3464 or email at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PRIVATE ENTITY FISCAL NOTE**I. RULE NUMBER****Title 4 -Department of Economic Development****Division 220 - Missouri Board of Pharmacy****Chapter 2 - General Rules****Proposed Amendment - 4 CSR 220-2.900 Automated Dispensing and Storage Systems**

Prepared June 20, 2006 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT**Annual Costs**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated annual cost of compliance with the amendment by affected entities:
50	Licensees (Automated Dispensing Machine @ \$15,000)	\$750,000
Estimated Annual Cost During the First Year of Implementation of the Rule with a Continuous Annual Increase of \$30,000		\$750,000

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. Automated dispensing systems are available for purchase by the pharmacy, but the decision is up to the pharmacy permit holder to determine whether the pharmacy will use this method for dispensing. The board cannot accurately determine how many of the approximate 1,257 pharmacies will elect to purchase this new type of system for their pharmacy setting at a cost of approximately \$15,000 per unit. However, for the purpose of this fiscal note, the board estimates that approximately 4% of the pharmacies (approx. 50) will purchase and utilize such a system in the first year. Thereafter, the board estimates that approximately 2 pharmacies will annually purchase the system.
2. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

[Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT]
[Division 220—State Board of Pharmacy]
**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL
REGISTRATION**
Division 2220—State Board of Pharmacy
Chapter 5—Drug Distributor

PROPOSED AMENDMENT

[4 CSR 220-5.020] **20 CSR 2220-5.020 Drug Distributor Licensing Requirements.** The board is proposing to amend subsection (4)(F) and add section (9).

PURPOSE: This amendment requires drug distributor managers-in-charge to provide the board with employment history and requires out-of-state drug distributors to designate a registered agent in Missouri for service of process purposes.

(4) Drug distributor license applications and renewal applications shall be completed and submitted to the Board of Pharmacy along with the appropriate fees before any license is issued or renewed. Information required on the application shall include:

(F) The name of the manager in charge who meets the requirements as set forth in [4 CSR 220-5.030(2) and completes the] **20 CSR 2220-5.030(2); a complete notarized manager-in-charge affidavit of the license application [and has it notarized]; and a history of employment/occupations and offices held during the past seven (7) years; and**

(9) Each licensed corporate wholesale distributor located outside of this state that distributes drugs in this state shall designate a registered agent in this state for service of process. Any licensed corporate wholesale distributor that does not designate a registered agent shall be deemed to have designated the secretary of state of this state to be its true and lawful attorney, upon whom may be served all legal process in any action or proceeding against any licensed corporate wholesale distributor growing out of or arising from such distribution. Service of process shall be accomplished as authorized by law.

AUTHORITY: sections 338.330, 338.333, 338.335, 338.337, 338.340 and 338.350, RSMo 2000. Original rule filed Feb. 4, 1991, effective June 10, 1991. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 21, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Pharmacy, PO Box 625, Jefferson City, MO 65102, via facsimile to (573) 526-3464 or email at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

[Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT]
[Division 220—State Board of Pharmacy]
**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL
REGISTRATION**
Division 2220—State Board of Pharmacy
Chapter 5—Drug Distributor

PROPOSED AMENDMENT

[4 CSR 220-5.030] **20 CSR 2220-5.030 Definitions and Standards for Drug Wholesale and Pharmacy Distributors.** The board is amending subsections (2)(A), (2)(E), (3)(M) and (3)(O).

PURPOSE: This amendment adds language which requires a drug distributor manager-in-charge to be present and involved in the daily operation of the facility; requires procedures for record keeping, investigating and reporting counterfeit or suspected counterfeit drugs/devices to the board and other federal/state agencies; and prohibits issuance of a drug distributor license to a location that is a residence.

(2) No drug distributor license will be issued unless the facility is under the direct supervision of a manager-in-charge.

(A) The board shall consider the same factors in reviewing the qualifications of someone who is appointed as a manager-in-charge as those outlined in [4 CSR 220-5.020] **20 CSR 2220-5.020(8)(A)1.**

(E) Drug distributor operations must be conducted at all times under the supervision of a properly designated manager-in-charge. **The manager-in-charge must be actively involved and aware of the actual daily operations of the drug distributor operation. The manager-in-charge must be physically present at the drug distributor operation during normal business hours, except for time periods when absent due to illness, scheduled vacation or other authorized absence; and be aware of, and knowledgeable about, all policies and procedures pertaining to the operations of the drug distributor operation.** When the person who is manager-in-charge resigns or is terminated from the position, the holder of the license shall immediately notify the board office of the resignation or termination of the manager-in-charge and by notarized affidavit give the name of the new manager-in-charge.

(3) Minimum standards of practice for drug distributors shall include the following:

(M) Wholesale drug and pharmacy distributors shall establish, maintain and adhere to written policies and procedures, which shall be followed for the receipt, security, storage, inventory and distribution of prescription drugs, including policies and procedures for identifying, recording and reporting losses or thefts and for correcting all errors and inaccuracies in inventories. Drug distributors shall include in their written policies and procedures the following:

1. A procedure where the oldest approved stock of a prescription drug product is distributed first. The procedure may permit deviation from this requirement if the deviation is temporary and appropriate;

2. A procedure to be followed for handling recalls and withdrawals of prescription drugs. This procedure shall be adequate to deal with recalls and withdrawals due to any—

A. Action initiated at the request of the FDA or other federal, state, or local law enforcement or other government agency, including the Board of Pharmacy;

B. Voluntary action by the manufacturer to remove defective or potentially defective drugs from the market; or

C. Action undertaken to promote public health and safety by replacing existing merchandise with an improved product or new package design;

3. A procedure to ensure that drug distributors prepare for, protect against and handle any crisis that affects the security or operation of any facility in the event of strike, fire, flood or other natural disaster, or other situations of local, state or national emergency; [and]

4. A procedure for reporting counterfeit or suspected counterfeit drugs or devices or counterfeiting or suspected counterfeiting activities to the board;

5. A procedure for the mandatory reporting to the board and any other appropriate federal or state agency of all shortages

of prescription drugs and devices where it is known or suspected that diversion or theft is occurring;

6. A procedure for investigating discrepancies involving counterfeit, suspect of being counterfeit, contraband, or suspect of being contraband in the inventory and reporting such discrepancies within three (3) business days to the board and any other appropriate federal or state agency shall be maintained by each drug distributor;

7. A procedure for reporting criminal or suspected criminal activities involving the inventory of drug(s) and device(s) to the board within the three (3) business days; and

[4./8. A procedure to ensure that any outdated prescription drugs shall be segregated from other drugs and either returned to the manufacturer or destroyed. This procedure shall provide for written documentation of the disposition of outdated prescription drugs. This documentation shall be maintained for three (3) years after disposition of the outdated drugs;

(O) No drug distributor license shall be issued to any location, regardless of zoning, **that is a residence or** that shares an address and/or physical space with a business not related to the distribution of prescription drugs or drug-related devices, or not licensed and regulated by the state of Missouri.

AUTHORITY: sections 338.333, 338.343 and 338.350, RSMo 2000. Original rule filed Feb. 4, 1991, effective June 10, 1991. Amended: Filed Jan. 27, 1995, effective Sept. 30, 1995. Amended: Filed March 15, 2000, effective Sept. 30, 2000. Amended: Filed Nov. 1, 2000, effective June 30, 2001. Amended: Filed May 13, 2005, effective Oct. 30, 2005. Amended: Filed Aug. 21, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Pharmacy, PO Box 625, Jefferson City, MO 65102, via facsimile to (573) 526-3464 or email at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

[Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT]

[Division 232—Missouri State Committee of Interpreters]

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

**Division 2232—Missouri State Committee of Interpreters
Chapter 2—Licensure Requirements**

PROPOSED RULE

[4 CSR 232-2.040] 20 CSR 2232-2.040 Certifications Recognized by the Board

PURPOSE: This rule allows applicants with certain national certifications to become licensed in Missouri.

(1) In addition to the certificates specified in section 209.322, RSMo, the following licenses and certifications are recognized as qualifying credentials for an initial license, renewal license or temporary license:

(A) Certification issued by the National Association of the Deaf (NAD) and the Registry of Interpreters for the Deaf, Inc. (RID), doing business as NAD-RID National Interpreter Certification, c/o RID, Inc., 333 Commerce Street, Alexandria, VA 22314, as follows:

1. National Interpreter Certification (NIC);
2. NIC Advanced; and
3. NIC Master.

AUTHORITY: section 209.328.2(3), RSMo 2000. Emergency rule filed Aug. 22, 2006, effective Sept. 1, 2006, expires Feb. 27, 2007. Original rule filed Aug. 22, 2006.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed rule with the Missouri State Committee of Interpreters, Pamela Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102, by facsimile to (573) 526-3489, or by email at Interpreters@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 10—Director, Department of Mental Health
Chapter 7—Core Rules for Psychiatric and Substance Abuse Programs**

PROPOSED AMENDMENT

9 CSR 10-7.140 Definitions. The director is amending subsection (2)(RR).

PURPOSE: The purpose of this amendment is to modify the definition of qualified substance abuse professional to require certification or registration by the Missouri Substance Abuse Counselors' Certification Board, Inc. for all substance abuse professionals that do not meet the definition of qualified mental health professional.

(2) Unless the context clearly indicates otherwise, the following terms shall mean:

(RR) Qualified substance abuse professional, a person who demonstrates substantial knowledge and skill regarding substance abuse by being either—

[1. A counselor, psychologist, social worker or physician licensed in Missouri who has at least one (1) year of full-time experience in the treatment or rehabilitation of substance abuse;

2. A graduate of an accredited college or university with a master's degree in social work, counseling, psychology, psychiatric nursing or closely related field who has at least two (2) years of full-time experience in the treatment or rehabilitation of substance abuse;

3. A graduate of an accredited college or university with a bachelor's degree in social work, counseling, psychology or closely related field who has at least three (3) years of full-time experience in the treatment or rehabilitation of substance abuse; or

4. An alcohol, drug or substance abuse counselor certified by the Missouri Substance Abuse Counselors Certification Board, Inc.]

1. A physician or qualified mental health professional licensed in Missouri with at least one (1) year of full-time experience in treatment of persons with substance use disorders; or
2. A person certified or registered by the Missouri Substance Abuse Counselors' Certification Board, Inc.;

AUTHORITY: sections 630.050 and 630.055, RSMo 2000. Original rule filed Feb. 28, 2001, effective Oct. 30, 2001. Amended: Filed April 15, 2002, effective Nov. 30, 2002. Amended: Filed Aug. 31, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities seventy-seven thousand five hundred dollars (\$77,500) in the aggregate for initial registration in the first year. This proposed amendment will cost private entities two hundred eight thousand seven hundred dollars (\$208,700) in the aggregate for renewal and continuing education in the second year. This proposed amendment will cost private entities one hundred sixty-one thousand two hundred dollars (\$161,200) in the aggregate annually for biennial renewal and continuing education in the third year and future years.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to Terry Morris, Division of Alcohol and Drug Abuse, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**Fiscal Note
Private Entity Cost**

I. Rule Number and Name: 9 CSR 10-7.140 Definitions

Type of Rulemaking: Proposed Amendment

II. SUMMARY OF FISCAL IMPACT. Present a summary of the fiscal impact. If the proposed rulemaking will affect more than one category of business, use one row for each category. In the first row, fill in the estimated number of business in the first category. In the second column, fill in the type of business in the category. In the third column, fill in the aggregate cost (over the life of the rule) to all businesses in this category.

Estimate of the number of entities by class which would likely be affected by the adopting of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
All	Qualified Substance Abuse Counselors (QSAC)	\$77,500 (initial registration year one)
All	Qualified Substance Abuse Counselors (QSAC)	\$208,700 (first year renewal year two)
All	Qualified Substance Abuse Counselors (QSAC)	\$161,200 (on-going annual cost year three and future years)

III. WORKSHEET. (Present more detailed fiscal information.)

Year one (Fiscal Year 2007) this rule will require approximately 500 substance abuse counselors to become certified or registered at a cost of \$155 to either the individual counselor or provider. ($500 * \$155 = \text{total cost } \$77,500$.)

Year two (Fiscal Year 2008) this rule will require approximately 500 substance abuse counselors to renew their certification or registration at a cost of \$190 to either the individual counselor or provider. This renewal will expire April 30, 2008. ($500 * \$190 = \text{cost of } \$95,000$) Subsequent renewals will be for two year periods. In addition in order to renew, each counselor will be required to have 30 hours of continuing education units (c.e.u.). The estimated cost for each hour of c.e.u. is \$7.58. ($500 * 30 * \$7.58 = \text{cost of } \$113,700$) Total cost year 2 ($\$95,000 + \$113,700 = \text{total cost } \$208,700$).

Year three (Fiscal Year 2009) and beyond for the life of this rule will require renewals for two year periods, costs will be calculated on an estimated annual basis. For each 2 year renewal each counselor will be required to have 60 units of c.e.u. over the two year period. Annualized cost estimate for renewals Year 3 ($500 \text{ counselors} * \$95 (\$190 / 2) = \$47,500$). Annualized cost estimate for c.e.u. ($\$7.58 * 30 * 500 = \$113,700$). Total estimated annualized cost year for 3 and beyond ($\$47,500 + \$113,700 = \text{total cost } \$161,200$).

The amendment will require current qualified substance abuse professionals not licensed as a physician, mental health professional or certified by the Missouri Substance Abuse Counselors' Certification Board to have their education and experience approved by the Missouri Substance Abuse Counselors' Certification Board. Those individuals approved by the Missouri Substance Abuse Counselors' Certification Board will be designated as registered substance abuse professionals and meeting the Division's criteria for qualified substance abuse professional. The Division reimburses only qualified substance abuse professionals to perform certain key service functions.

IV. ASSUMPTIONS AND METHODOLOGY. (Present assumptions, references and methods of acquiring information that underlie the conclusions in the fiscal note. Examples of information that might be included here are the sources of information presented in the fiscal note, why those sources were chosen and eventualities that might cause the fiscal impact to be different from your estimate.)

The Department of Mental Health estimates that 500 QSAC will be required to certify or register with the Missouri Substance Abuse Counselors' Certification Board. The QSAC will also be required to renew the certification or registration every other year. The estimated annualized cost of renewal is $(190 \times .5 \times 500 =)$ \$47,500.

The average cost of c.e.u. was calculated by taking the cost of the ADA Spring Seminar (\$125) and dividing it by the number of c.e.u. that can be earned (16.5). $\$125/16.5 =$ \$7.58. The estimated annualized cost of c.e.u. is $(\$7.58 \times 30 \times 500 =)$ \$113,700.

Total annualized cost $\$47,500 + \$113,700 = \$161,200$.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 5—Conduct of Gaming**

PROPOSED AMENDMENT

11 CSR 45-5.180 Tournament Chips and Tournaments. The commission is amending section (3).

PURPOSE: This rule is being amended to clarify entry fees and allowed adjustments to adjusted gross receipts.

(3) As used in this rule, **entry fees shall be defined as the total amount paid by a person or on a person's behalf for participation in a tournament.** [a]A tournament is a contest offered and sponsored by a Class A licensee in which patrons may be assessed an entry fee or be required to meet some other criteria to compete against one another in a gambling game or series of gambling games in which winning patrons receive[d] a portion or all of the entry fees, if any, which may be increased with cash or non-cash prizes from the Class A licensee. Class A licensees may conduct tournaments provided:

(F) **Entry fees shall be subject to the adjusted gross receipts tax pursuant to section 313.822, RSMo.** Entry fees shall be considered as buy-in except when paid with chips, tokens, or a ticket[;]. **At least eighty percent (80%) of all entry fees must be returned to tournament participants as winnings;**

(G) **Cash and non-cash [W]innings paid in a [free] tournament shall [not] be deductible from adjusted gross revenue, but any such deduction shall not exceed the total entry fees received for the tournament and non-cash winnings shall be deductible only to the dollar value thereof actually invoiced to and paid by the licensee;** and

AUTHORITY: sections 313.004, 313.805, 313.807 and 313.817, RSMo 2000. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed Nov. 10, 1997, effective June 30, 1998. Amended: Filed May 6, 1999, effective Dec. 30, 1999. Amended: Filed July 9, 2004, effective Jan. 30, 2005. Amended: Filed June 30, 2005, effective Jan. 30, 2006. Amended: Filed Aug. 30, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 10:00 a.m. on November 7, 2006, in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 5—Conduct of Gaming**

PROPOSED AMENDMENT

11 CSR 45-5.190 Minimum Standards for Electronic Gaming Devices. The commission is amending subsection (2)(I) and adding section (4).

PURPOSE: This rule is being amended to require pay glass and its corresponding artwork for mechanical displays for game theme variations be submitted for approval and to require adherence to requirements set forth in minimum internal control standards.

(2) Electronic gaming devices shall—

(I) Clearly and accurately display applicable rules of play and the award that will be paid to the player when the player obtains a specific win, including mystery awards. The displays shall clearly indicate whether awards are designated in denominational units, currency, credits or some other unit. All payable information must be able to be accessed by a player prior to the player committing to a wager. **Pay glass and its corresponding artwork for mechanical displays must be submitted to an independent testing laboratory designated by the commission for review and approval prior to implementation within the state;**

(4) In addition to the requirements of this rule, all licensees shall comply with Chapter E of the Minimum Internal Control Standards as authorized by 11 CSR 45-9.030.

AUTHORITY: sections 313.004, 313.800 and 313.805, RSMo 2000. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed June 25, 1996, effective Feb. 28, 1997. Amended: Filed May 13, 1998, effective Oct. 30, 1998. Amended: Filed March 31, 2005, effective Oct. 30, 2005. Amended: Filed Aug. 30, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 10:00 a.m. on November 7, 2006, in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 5—Conduct of Gaming**

PROPOSED AMENDMENT

11 CSR 45-5.200 Progressive Slot Machines. The commission is amending subsection (5)(C).

PURPOSE: This amendment allows required logs to be maintained electronically.

(5) The operation of wide-area progressive slot machines is allowed subject to compliance with all other requirements of this rule, in addition to the following conditions:

(C) The licensee authorized to provide a wide-area system must keep a hard or electronic copy log of all events for a period of at least sixty (60) days;

AUTHORITY: sections 313.004, 313.800 and 313.805, RSMo 2000. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 30, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 10:00 a.m. on November 7, 2006, in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 11—Taxation Regulations**

PROPOSED AMENDMENT

11 CSR 45-11.040 Return—Gaming Tax. The commission is amending sections (1)–(4), adding section (2) and renumbering the remaining sections.

PURPOSE: This rule establishes the procedure for tax returns for gaming tax. This rule is being amended to codify filing practices for tax returns currently in use by the commission, including electronic filing of returns and the imposition of filing deadlines.

(1) The licensee shall *[be responsible not only for the collection and payment of the amount of the gaming tax, but also shall make a]* file a tax return *[to]* with the commission *[on the dates prescribed by the commission showing the daily—1) gross receipts, 2) amount of winnings paid to wagerers, 3) resulting adjusted gross receipts and 4) amount of gaming tax, and other information as the commission may require;]* for each gaming day the licensee holds a Class A license and shall remit to the commission any unpaid amount **shown on the return.**

(2) The tax return filed with the commission shall include the following:

(A) The electronic daily filing of a record of the—1) gross receipts, 2) amount of winnings paid to wagerers, 3) resulting adjusted gross receipts, 4) amount of gaming tax, 5) admission fee liability, and 6) other information as the commission may require; using a form and set of procedures required by the commission. This portion of the return shall be deemed timely filed if received by the commission not later than 12:00 p.m. Central Standard Time on the first day financial institutions are open for business after the close of the business day on which the gaming tax and admission fee liability accrued;

(B) The electronic weekly filing of supporting worksheets using automated forms and a set of procedures required by the commission. This portion of the return shall be deemed timely filed if received by the commission not later than 12:00 p.m. Central Standard Time on the Friday following each gaming week which, for the purposes of this section, means Wednesday of each week through the following Tuesday; and

(C) The weekly filing by electronic transmission or fax of signed Daily Tax Transmittal Reports for each gaming day in the gaming week. This portion of the return shall be deemed timely

filed if received by the commission not later than 12:00 p.m. Central Standard Time on the Friday following each gaming week.

[(2)](3) [The tax return filed with the commission shall be on a form supplied by the commission and shall be filed at the address shown on the return.] It is the duty of the licensee to obtain any computer hardware and software necessary to file a tax return electronically. It is also the duty of the licensee to obtain any required form from the commission and adhere to any required set of procedures when filing a return. [f]Failure to obtain the [form] required forms or adhere to the required procedures will not [be an] excuse the licensee [for failing to file the] from filing any required returns.

[(3)](4) [The commission in its discretion may require electronic filing upon the terms and conditions that the commission shall specify.] The time for filing any portion of a tax return may be extended by the commission upon the submission by the licensee of a written request for extension prior to the filing due date. The commission shall not extend the time for filing any portion of a tax return by more than seven (7) days and no request for extension shall be granted without the showing of good cause. In granting a request for extension, the commission shall provide the licensee with written approval of request for extension. Approval by the commission of a request for extension shall not extend the time for payment of any gaming tax or fee.

[(4)](5) Every licensee is required to file a tax return [on the prescribed basis] in accordance with the provisions of this section even [though] if no wagers were made or admission fees charged during the period covered by the return.

AUTHORITY: sections 313.004, 313.805, and 313.822, RSMo [1994] 2000. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed June 25, 1996, effective Feb. 28, 1997. Amended: Filed Aug. 30, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate, due to the fact that all casinos in Missouri currently follow the practices prescribed by the rule.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Riverboat Gaming Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this rule, are requested to submit the cost (estimated or actual, if available) with the comments. Public hearing is scheduled for 10:00 a.m. on November 7, 2006, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 11—Taxation Regulations**

PROPOSED RESCISSION

11 CSR 45-11.090 Determination of Timeliness and Extensions for Filing a Return. This rule contained the commission's timeliness and extension requirements for returns.

PURPOSE: This rule is being rescinded as the commission's timeliness and extension requirements for returns have been included in the provisions of 11 CSR 45-11.040.

AUTHORITY: sections 313.004, 313.805, 313.820, and 313.822, RSMo Supp. 1993. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Rescinded: Filed Aug. 30, 2006.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Public Safety, Missouri Gaming Commission, Riverboat Gaming Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this rule, are requested to submit the cost (estimated or actual, if available) with the comments. Public hearing is scheduled for 10:00 a.m. on November 7, 2006, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

Title 11—DEPARTMENT OF PUBLIC SAFETY

Division 45—Missouri Gaming Commission

Chapter 11—Taxation Regulations

PROPOSED AMENDMENT

11 CSR 45-11.110 Refund—Claim for Refund. The commission is amending sections (1)–(7), adding section (5) and renumbering sections as needed.

PURPOSE: This rule establishes the procedure for tax returns for gaming tax. This rule is being amended to correct grammatical errors, eliminate Appendix A to the rule, and to streamline the tax return approval process.

(1) If a tax or fee, penalty or interest has been paid by a licensee that is in excess of the amount *[owned] owed*, the licensee may file a claim for refund or credit. No such claim for refund or credit shall be allowed unless duplicate copies of the claim are filed within three (3) years from the date of overpayment. *[No claim will be considered unless filed within that time.]* The three (3) *[year]* year period of limitation for the credit or refund begins with the date the licensee pays taxes to the commission on account of the adjusted gross receipts in question or with the date the licensee pays fees to the commission on account of the tickets of admission in question.

(2) Every claim for refund or credit must include the *[claim for Refund or Credit Form shown in Appendix A of this rule, which must be in writing under oath and must state the specific grounds upon which the claim is founded. Amended returns are required to be filed for all periods involved in the overpayment. The claim must also include a request for hearing as described in 11 CSR 45-13.030.]* following:

(A) Claim For Refund Or Credit Form provided by the commission, which must be in writing, signed by an authorized agent of the licensee, and state the specific grounds upon which the claim is founded; and

(B) Amended returns for all periods involved in the overpayment of the tax or fee, penalty or interest that has been paid by the licensee.

(4) A claim for credit or refund shall be approved only *[—]* after the commission has determined the claim to be valid and recorded its approval on the Claim For Refund Or Credit Form filed by the licensee. The commission may authorize the director, or the director's designated representative, to make the initial determination as to the validity of any claim for credit or refund filed with the commission and to approve or deny the claim; provided, however, that this section shall not limit any other authorization of the director. The authorization granted herein shall not include the authority to review findings of a hearing officer under the provisions of 11 CSR 45-13.

[(A) After a hearing process procedure is conducted in accordance with 11 CSR 45-13.060, provided that the hearing officer may, at his/her discretion, recommend a summary judgment without an actual hearing, and after a final commission order is entered in accordance with 11 CSR 45-13.070, granting such credit or refund; or

(B) After the director has determined, in his/her discretion, that there are no material facts in dispute regarding the validity of the refund or credit claim, and the director then, in his/her discretion, issues an order setting forth findings of fact, conclusions of law and an order granting the claim for refund or credit.]

(5) In cases where a claim for credit or refund is denied by the commission, the licensee may submit a request for a hearing, in accordance with 11 CSR 45-13, to review the commission's decision to deny the claim.

[(5)](6) In cases where a claim for credit is approved, the commission will issue a credit memorandum *[, in the form shown in Appendix A of this rule, in]* for the amount of the overpayment *[along with the final order]*. The credit may *[then]* be applied by the *[person]* licensee in satisfaction of subsequent tax or fee liability. A copy of the approved credit memorandum must be attached to the return to which it is being applied.

(A) A refund is made rather than a credit *[where]* when the approved credit cannot be taken as a credit on the next return filed with the commission. **The *[R]*refund *[is]* shall be made with interest as determined by section 32.065, RSMo.**

(B) Any approved credit of the gaming tax or admission fee shall be made without interest.

(C) Taxes or fees which are claimed to have been unconstitutionally imposed or collected are subject to the same requirements as other claims for refund or credit.

[(6)](7) All claims for credit or refund filed with the commission and any documents filed in support of such claims or introduced *[through the]* in a hearing *[procedure]* to contest *[such claims]* the denial of a claim shall be deemed by the commission to be open records.

[(7)](8) The *[c]*Claim *[f]*For *[r]*Refund *[o]*Or *[c]*Credit *[f]*Form *[s]* shall be made available on the commission's website at www.mgc.dps.mo.gov and may be requested by writing to the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102.

AUTHORITY: sections 313.004, 313.800, 313.805 and 313.822, RSMo [1994] 2000. Emergency rule filed Sept. 1, 1993, effective

Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed Feb. 19, 1998, effective Aug. 30, 1998. Emergency amendment filed June 5, 2000, effective June 16, 2000, expired Feb. 22, 2001. Amended: Filed June 23, 2000, effective Jan. 30, 2001. Amended: Filed Aug. 30, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate, due to the fact that all casinos in Missouri currently follow the practices prescribed by the rule.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Public Safety, Missouri Gaming Commission, Riverboat Gaming Division, PO Box 1847, 3417 Knipp Drive, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this amendment, are requested to submit the cost (estimated or actual, if available) with the comments. Public hearing is scheduled for 10:00 a.m. on November 7, 2006, in the commission hearing room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 12—Liquor Control**

PROPOSED AMENDMENT

11 CSR 45-12.020 Excursion Liquor License and Premises Defined. The commission is amending sections (1), (2) and (3).

PURPOSE: The amendment further defines the requirements for excursion liquor licenses.

(1) As used in this chapter, the **following terms mean:**

(A) “[e]xcursion liquor licensee,” [shall mean] any Class A applicant or licensee who has been issued an excursion liquor license which authorizes the Class A applicant or licensee to serve, offer for sale or sell intoxicating liquor aboard any excursion gambling boat or facility immediately adjacent to and contiguous with the excursion gambling boat which is owned and operated by the Class A applicant or licensee[.]; and

(B) “Licensed premises,” any and all property owned and operated by the Class A applicant or licensee immediately adjacent to and contiguous with its riverboat gaming operation as defined in 11 CSR 45-1.090. 11 CSR 45-12.091 to the contrary notwithstanding, hotel guest rooms are not considered to be on the licensed premises.

(2) An excursion liquor license shall be a license granted for a one (1)-year term by the commission for sale of intoxicating liquor by the drink at retail for consumption on the licensed premises, **and the sale of intoxicating liquor in the original package at locations specifically indicated on the license for consumption off the licensed premises.**

(3) The sale of any intoxicating liquor except malt liquor, in the original package, in any quantity less than fifty (50) milliliters shall be deemed sale by the drink, **and** once so made, the container and every

case shall be emptied and its contents served as other intoxicating liquor served or sold by the drink.

AUTHORITY: sections 313.004, 313.805 and 313.840, RSMo [1994] 2000. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Emergency amendment filed June 14, 1994, effective June 24, 1994, expired Oct. 21, 1994. Emergency amendment filed Oct. 25, 1994, effective Nov. 4, 1994, expired March 3, 1995. Amended: Filed June 14, 1994, effective Jan. 29, 1995. Amended: Filed May 13, 1998, effective Oct. 30, 1998. Amended: Filed Aug. 30, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 a.m. on November 7, 2006, in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 12—Liquor Control**

PROPOSED AMENDMENT

11 CSR 45-12.040 Applications. The commission is amending sections (1) and (2).

PURPOSE: This amendment further clarifies the requirements for excursion liquor licenses.

(1) Application for an excursion liquor license must be made on forms provided by the commission (see Appendix A, **included herein**).

(2) The application shall describe with particularity the areas of the premises in which intoxicating liquors will be served, **sold, and stored.**

AUTHORITY: sections 313.004, 313.805 and 313.840, RSMo [1994] 2000. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed May 13, 1998, effective Oct. 30, 1998. Amended: Filed Aug. 30, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition

to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 a.m. on November 7, 2006, in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 12—Liquor Control**

PROPOSED AMENDMENT

11 CSR 45-12.090 Rules of Liquor Control. The commission is amending subsection (3)(A) and adding new sections (22), (23) and (24).

PURPOSE: This amendment further defines the requirements for reliance on identification cards, prohibits free intoxicating liquor on the gaming floor, permits the removal of unfinished bottles of wine, and permits charitable or religious organizations to provide or auction intoxicating liquor in nongaming areas under certain circumstances.

(3) Sale to Minors and Other Persons. An excursion liquor licensee shall not, through actions of his/her own or of an employee, sell, vend, give away its or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of twenty-one (21) years, to any person intoxicated or appearing to be in a state of intoxication, or to a habitual drunkard. A licensee shall not permit any person under the age of twenty-one (21) years, any intoxicated person, or any habitual drunkard to consume intoxicating liquor on the licensed premises.

(A) Any licensee who in good faith relies on a/n operator's or chauffeur's/ valid and unexpired driver's or commercial driver's license issued under the provision of section 302.177, RSMo or under the laws of [the] any state [of Arkansas, Illinois, Oklahoma, Kansas or Iowa] or territory or the United States to residents of those states or territories, or a valid and unexpired identification card as provided under section 302.181, RSMo, or under the laws of any state or territory of the United States to residents of those states or territories, or a valid and unexpired identification card issued by any uniformed service of the United States, or a valid and unexpired passport shall not be disciplined for a sale to a minor in violation of section (1).

(22) Complimentary Service of Intoxicating Liquor. An excursion liquor licensee shall not, through actions of his/her own or of an employee, supply any intoxicating liquor in any quantity whatsoever free of charge or as a complimentary to any person on the gaming floor of the premises.

(23) Unfinished bottles of wine may be carried out of a restaurant bar, when—It shall not be unlawful for the excursion liquor licensee or employee of a food and beverage outlet located in nongaming areas to allow patrons to carry out one (1) or more bottles of unfinished wine under the following conditions:

- (A) The patron must have ordered a meal;
- (B) The bottle or bottles of wine must have been at least partially consumed during the meal;
- (C) The restaurant bar must provide a dated receipt for the unfinished bottle or bottles of wine; and
- (D) The restaurant bar must securely reseal the bottle or bottles of wine and place them in one (1) or more one (1)-time-use, tamperproof, transparent bags and securely seal the bags.

(24) Activities for certain organizations allowed, when—Excursion liquor licensees may, in nongaming areas of their licensed premises, permit charitable or religious organizations as defined in section 313.005, RSMo, or educational institutions, to hold:

(A) Events or activities for which admission is charged and beer, wine, brandy, or nonintoxicating beer which has been donated, delivered or caused to be delivered pursuant to the provisions of section 311.332, RSMo, is available without a separate charge. Such occurrences shall not constitute resale for the purposes of this rule; or

(B) Auctions of wine in the original package for fund-raising purposes pursuant to the provisions of section 311.332, RSMo; provided that all remaining beer, wine, brandy, and nonintoxicating beer so donated, delivered, or caused to be delivered to the charitable or religious organization or educational institution at the close of the event, activity or auction shall remain the property and responsibility of the charitable or religious organization or educational institution and shall not be converted to the benefit of the excursion liquor licensee.

AUTHORITY: sections 313.004 and 313.805, RSMo 2000 and 313.840, RSMo Supp. [2003] 2005. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 30, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 a.m. on November 7, 2006, in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle**

PROPOSED RESCISSION

12 CSR 10-23.422 Issuance of Purple Heart License Plates. This rule clarified procedures for issuance of Purple Heart license plates.

PURPOSE: This rule is being rescinded as it has been determined that existing legislation authorizing the issuance of Purple Heart license plates does not require clarification through rule.

AUTHORITY: sections 301.144, RSMo Supp. 1990, and 301.451, RSMo Supp. 1991. Emergency rule filed Sept. 16, 1991, effective Sept. 26, 1991, expired Jan. 23, 1992. Original rule filed Sept. 16, 1991, effective Jan. 13, 1992. Rescinded: Filed Aug. 23, 2006.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 19—DEPARTMENT OF HEALTH AND
SENIOR SERVICES
Division 30—Division of [Health Standards]
Regulation and Licensure
Chapter 82—General Licensure Requirements**

PROPOSED AMENDMENT

19 CSR 30-82.010 General Licensure Requirements. The department is amending sections (1)–(8) and deleting the form which follows this rule in the *Code of State Regulations*.

PURPOSE: This amendment deletes the terms residential care facility I and II used in this rule and replaces those terms with residential care facility and assisted living facility; clarifies who may sign an application, clarifies and supplements requirements for disclosure of information, and incorporates the application form and other forms by reference.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) Persons wishing to operate a skilled nursing facility, intermediate care facility, *[residential care facility II]* **assisted living facility** or residential care facility *[I]* shall *[submit information to the division as set out in the application for license to operate a long-term care facility form, including all documents listed in that application.]* **complete form MO 580-2631 (9-05), Application for License to Operate a Long-Term Care Facility, incorporated by reference in this rule and available through the Department of Health and Senior Services' (department's) website at www.dhss.mo.gov, or by mail at: Department of Health and Senior Services Warehouse, Attention General Services Warehouse, PO Box 570, Jefferson City, MO 65102-0570, telephone: (573) 526-3861.** This rule does not incorporate any subsequent amendments or additions. The completed application shall contain a statement that the information submitted is true and correct to the operator's knowledge and belief and shall be signed under oath or affirmation before a notary public by a person with the express authority to sign on behalf of the operator. The completed application form shall be submitted to Fee Receipts, Section for Long Term Care, Department of Health and Senior Services, PO Box 570, 930 Wildwood, Jefferson City, MO 65109. One application may be used to license multiple facilities **if located** *[The applicant may use one (1) application form, if the operator wishes to license more than one (1) facility] on the same premises.*

(A) The applicant~~/,~~ shall submit the following documents **and information** as listed in the application:

1. Financial information demonstrating that the applicant has the financial capacity to operate the facility;

2. A document disclosing the location, capacity and type of licensure and certification of any support buildings, wings or floors housing residents on the same or adjoining premises or plots of ground;

3. A document disclosing the name, address and type of license of all other long-term care facilities owned or operated by either the applicant or by the owner of the facility for which the application is being submitted;

4. A copy of any executed management contracts between the applicant and the manager of the facility;

5. A copy of any executed contract conveying the legal right to the facility premises, including, but not limited to, leases, subleases, rental agreements, contracts for deed and any amendments to those contracts;

6. A copy of any contract by which the facility's land, building, improvements, furnishings, fixtures or accounts receivable are pledged in whole or in part as security, if the value of the asset pledged is greater than five hundred dollars (\$500);

7. A nursing home surety bond or noncancelable escrow agreement, if the applicant holds or will hold facility residents' personal funds in trust;

8. A document disclosing the name, address, title and percentage of ownership of each affiliate of any general partnership, limited partnership, general business corporation, nonprofit corporation, limited liability company or governmental entity which owns or operates the facility or is an affiliate of an entity which owns or operates the facility~~/; and~~. **If an affiliate is a corporation, partnership, or LLC, a list of the affiliate's affiliates must also be submitted.** As used in this rule, the word "affiliate" means:

A. With respect to a partnership, each partner thereof;

B. With respect to a limited partnership, the general partner and each limited partner with an interest of five percent (5%) or more in the limited partnership;

C. With respect to a corporation, each person who owns, holds, or has the power to vote five percent (5%) or more of any class of securities issued by the corporation, and each officer and director;

D. With respect to an LLC, the LLC managers and members with an interest of five percent (5%) or more;

9. If applicable, a document stating the name and nature of any additional businesses in operation on the facility premises and the document issued by the division giving its prior written approval for each business~~/.~~;

10. A list of all principals in the operation of the facility and their addresses and titles and, so that the department may verify the information disclosed pursuant to paragraphs (1)(A)11. and (1)(A)12. of this rule, the Social Security numbers or employer identification numbers of the operator and all principals in the operation of the facility. As used in this rule, "principal" means officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities;

11. Disclosure concerning whether the operator or any principals in the operation of the facility are excluded from participation in the Title XVIII (Medicare) or Title XIX (Medicaid) program or any state or territory;

12. Disclosure concerning whether the operator or any principals in the operation of the facility have ever been convicted of a felony in any state or federal court concerning conduct involving either management of a long-term care facility or the provision or receipt of health care services; and

13. Emergency telephone, fax and email contact information for the facility administrator, director of nursing and the operator's corporate office.

(B) Every facility that provides specialized Alzheimer's or dementia care services, as defined in sections 198.500 to 198.515, RSMo *[Supp. 1997]*, by means of an Alzheimer's special care unit or program shall submit to the *[Division of Aging, as part of]* **department** with the licensure application or renewal, the following:

1. *[A form entitled "Alzheimer's Special Care Services Disclosure Form" shall be developed by the Division of Aging which provides information, if applicable, of] Form MO 580-2637, Alzheimer's Special Care Services Disclosure (2-03), incorporated by reference in this rule and available through the department's website: www.dhss.mo.gov, or by mail at: Department of Health and Senior Services Warehouse, Attention General Services Warehouse, PO Box 570, Jefferson City, MO 65102-0570, telephone: (573) 526-3861. This rule does not incorporate any subsequent amendments or additions. The form shall be completed showing how the care [is different] provided by the special care unit or program differs from care provided in the rest of the facility in the following areas:*

A. The Alzheimer's special care unit's or program's written statement of its overall philosophy and mission which reflects the needs of residents afflicted with dementia;

B. The process and criteria for placement in, or transfer or discharge from, the unit or program;

C. The process used for assessment and establishment of the plan of care and its implementation, including the method by which the plan of care evolves and is responsive to changes in condition;

D. Staff training and continuing education practices;

E. The physical environment and design features appropriate to support the functioning of cognitively impaired adult residents;

F. The frequency and types of resident activities;

G. The involvement of families and the availability of family support programs;

H. The costs of care and any additional fees; and

I. Safety and security measures; and

2. *[A document developed by and/or approved by the division] Form Guide to Selecting an Alzheimer's Special Care Unit (6/06) #455, incorporated by reference in this rule and available through the department's website: at www.dhss.mo.gov, or by mail at: Department of Health and Senior Services Warehouse, Attention General Services Warehouse, PO Box 570, Jefferson City, MO 65102-0570, telephone: (573) 526-3861 or a document of choice which contains, but is not limited to, [updated] all information on selecting an Alzheimer's special care unit or program that is contained in the Guide to Selecting an Alzheimer's Special Care Unit (12/03) #455. This rule does not incorporate any subsequent amendments or additions.*

(C) If, after filing an application, the operator identifies an error or if any information changes the issuance of the license, the operator shall—

1. Submit the correction or additional information to the *[division] department's Licensure and Certification Unit* in a letter accompanied by a notarized statement that the information being submitted is true and correct to the best of the operator's knowledge and belief; or

2. Submit the correction or additional information to the *[division by using [MO Form 886-2609, entitled: Corrections for LTC Facility License Application] department's Licensure and Certification Unit. Information shall be submitted using form MO 580-2623 (9-05), Corrections For Long Term Care Facility License Application, incorporated by reference in this rule and available through the Department of Health and Senior Services' (department's) website at www.dhss.mo.gov, or by mail at: Department of Health and Senior Services Warehouse, Attention General Services Warehouse, PO Box 570, Jefferson City, MO 65102-0570, telephone: (573) 526-3861. This rule does not incorporate any subsequent amendments or additions. The completed application form shall be signed by a person with express authority to sign on behalf of the operator and shall be submitted to Fee Receipts, Section for Long Term Care, Department of Health and Senior Services, PO Box 570, 930 Wildwood, Jefferson City, MO 65109.*

(D) If, as a result of an application review, the *[division] department* requests a correction or additional information, the operator,

within ten (10) working days of receipt of the written request shall—

1. Submit the correction or additional information to the *[division] department* in a letter accompanied by a notarized statement that the information being submitted is true and correct to the best of the operator's knowledge and belief; or

2. Submit the correction or additional information *[to the division by using MO Form 886-2609, entitled: Corrections for LTC Facility License Application] using form MO 580-2623 (9-05), Corrections For Long Term Care Facility License Application referenced in paragraph (1)(C)2. of this rule.*

(E) A new facility shall submit an application for an original license not less than thirty (30) days before the anticipated opening date. The *[division] department* must approve the application before a licensure inspection is scheduled. Sixty (60) days after its receipt, the *[division] department* shall consider any application for an original license withdrawn if it is submitted without all the required information and documents. If intending to continue with licensure, the operator shall submit a new application and fee along with all necessary documents.

(H) The *[division] department* shall issue each license only for the premises and operator named in the application. This license shall cover the entire premises unless stipulated otherwise and shall not be transferable. If the licensed operator of a facility is replaced by another operator, the new operator shall apply for a new license before the effective date of the change. A change of operator shall include a change in form of business as well as a change of person. Upon receipt of the application and receipt of confirmation that the change of operator has taken place, the *[division] department* shall grant the new operator a temporary operating permit of sufficient duration to allow the *[division] department* time to evaluate the application, conduct any necessary inspection(s) to determine substantial compliance with the law and the rules, and to either issue or deny a license to the new operator. The new operator shall be subject to all the terms and conditions under which the previous operator's license or temporary operating permit was issued. This includes any existing statement of deficiencies, plans of correction and compliance with any additional requirements imposed by the *[division] department* as a result of any existing substantial non-compliance. The new operator, however, shall apply to the *[division] department* for renewal in his/her/its name for any exception to the rules that had been granted the previous operator under the provisions of section (3) of this rule.

(I) The operator shall accompany each application for a license to operate a long-term care facility (skilled nursing facility, intermediate care facility, **assisted living facility** residential care facility *III* or *residential care facility I*) with a license fee of one hundred dollars (\$100) for those facilities which have a resident capacity of at least three (3) but less than twenty-five (25), three hundred dollars (\$300) for those facilities which have a resident capacity of twenty-five through one hundred (25-100), and six hundred dollars (\$600) for those facilities with a capacity of over one hundred (100+). The operator shall submit a separate fee for each facility's license application. This fee is nonrefundable unless the facility withdraws the application within ten (10) days of receipt by the *[division] department*. The *[division] department* will issue a license for a period of no more than two (2) years for the premises and operator named in the application. If the license is for less than two (2) years, the *[division] department* will prorate the fees accordingly.

(K) The *[division] department* shall issue a separate license for each level of care located on the same premises, whether applied for by one (1) application or more than one (1). If the operator uses one (1) application for two (2) or more levels of care on the same premises, the *[division] department* shall issue licenses with one (1) expiration date. If two (2) or more levels of care have existing licenses with different expiration dates and the operator elects to apply for licenses for the levels of care by submitting one (1) relicensure application, the expiration dates of the licenses issued shall be two (2) years subsequent to the expiration date of the license of the level of

care expiring earliest following receipt of the application by the *[division]* department. Fees for unused portions of licenses resulting from the submission of one (1) application for two (2) or more levels of care are nonrefundable.

(L) After receiving a license application, the *[division]* department shall review the application, investigate the applicant and the statements sworn to in the application for license and conduct any necessary inspections. A license shall be issued if—

1. The *[division]* department has determined that the application is complete, and that all necessary documents have been filed with the application including an approved nursing home bond or noncancelable escrow agreement if personal funds of residents are held in trust;

2. The *[division]* department has determined that the statements in the application are true and correct;

3. The *[division]* department has determined that the facility and the operator are in substantial compliance with the provisions of sections 198.003–198.096, RSMo and the corresponding rules;

4. The *[division]* department has determined that the applicant has the financial capacity to operate the facility;

5. The *[division]* department has verified that the administrator of a residential care facility *[[I]]*, assisted living facility, intermediate care facility or skilled nursing facility is currently licensed by the Missouri Board of Nursing Home Administrators under the provisions of Chapter 344, RSMo;

6. The *[division]* department has received the fee required by subsection (1)(I) of this rule;

7. The applicant meets the definition of operator as defined *[by 13 CSR 15-11.010(19)]* in **19 CSR 30-83.010**;

8. The applicant has received a Certificate of Need, if required, or has received a determination from the Certificate of Need Program that no certificate is required, has completed construction, and is in substantial compliance with the licensure rules and laws;

9. The *[division]* department has determined that **neither** the operator, owner or any principals in the operation of the facility have ever been convicted of an offense concerning the operation of a long-term care facility or other health care facility or, while acting in a management capacity, ever knowingly acted or knowingly failed to perform any duty which materially and adversely affected the health, safety, welfare or property of a resident;

10. The *[division]* department has determined that **neither** the operator, owner or any principals in the operation of the facility are excluded from participation in the Title XVIII (Medicare) or Title XIX (Medicaid) program or any state or territory;

11. The *[division]* department has determined that **neither** the operator, owner or any principals in the operation of the facility have ever been convicted of a felony in any state or federal court concerning conduct involving either management of a long-term care facility or the provision or receipt of health care services; and

12. The *[division]* department has determined that all fees due the state have been paid.

(M) If, during the period in which a license is in effect, a change occurs which causes the statements in the application to no longer be correct, including change of administrator, or if any document is executed which replaces, succeeds or amends any of the documents filed with the application, within ten (10) working days of the effective date of the change, the operator shall—

1. Submit a letter to the *[division]* department's **Licensure and Certification Unit** that contains a correction of the application with notification of the effective date of the change and a copy of any new documents. The operator must ensure the letter is accompanied by a notarized statement that the information being submitted is true and correct to the best of the operator's knowledge and belief; or

2. Submit to the *[division]* department a correction of the application and a copy of any new documentation and information by *[using MO Form 886-2609; entitled: Corrections for LTC Facility License Application]* submitting form **Corrections for**

Long Term Care Facility License Application referenced in paragraph (1)(C)2. of this rule.

(N) If from an analysis of financial information submitted with the application, or if from information obtained during the term of a license, the operator appears insolvent or a tendency toward insolvency, the *[division]* department shall have the right to request additional financial information from the operator. Within ten (10) working days after receiving a written request from the *[division]* department, the operator shall—

1. Submit to the *[division]* department the additional information requested in a letter accompanied by a notarized statement that the information being submitted is true and correct to the best of the operator's knowledge and belief; or

2. Submit the financial information to the *[division by using MO Form 886-2609]* department submitting form **Corrections for Long Term Care Facility License Application** referenced in paragraph (1)(C)2. of this rule.

(O) A license applicant's financial information, data and records submitted to the *[division]* department as required by this rule, including, but not limited to, copies of any Internal Revenue Service forms, shall be open for inspection and be released only—

1. To designated employees of the *[division]* department;

2. To the applicant furnishing this information or to his/her representative as designated in writing;

3. To the director of the *[Department of Social Services]* department or to his/her representative as designated in writing;

4. To the state auditor or his/her representative as designated in writing;

5. To appropriate committees of the general assembly or their representatives as designated in writing;

6. In any judicial or administrative proceeding brought under the Omnibus Nursing Home Act; or

7. When so ordered by a court of competent jurisdiction.

(P) To obtain a license for an additional level of care on the premises, the licensed operator shall submit a written request to the *[division]* department for the issuance of a license for the desired level of care. The request shall indicate the level of care, the number of beds desired, the name and address of the facility, the name and address of the operator, and shall include the notarized signature of the operator. The licensure fee shall accompany this request. Requests are subject to *[division]* department approval. The operator shall submit this request no less than sixty (60) days prior to the initiation date of the new level of care. The *[division]* department shall coordinate this license's expiration date with that of the original license and the *[division]* department shall prorate the license fee accordingly.

(Q) To request issuance of an amended license or temporary operating permit currently in effect, the operator shall—

1. Submit a written request to the *[division]* department containing the request for amendment, the date the operator would like the amendment to be effective, and the number of the license or temporary operating permit to be amended; *[and]*

2. Submit a fee for the issuance of the amended license or temporary operating permit as required by subsection (1)(R) of this rule~~./.~~; and

3. An operator of an assisted living facility with a license or temporary operating permit that refers to **19 CSR 30-86.043** may request an amended license or temporary operating permit that refers to **19 CSR 30-86.047** and, if requested, **19 CSR 30-86.045**. The operator shall submit a notarized letter requesting the change. The letter shall include the name of the facility, the requested change, and the date the change is requested to be effective. Effective April 1, 2007, the letter shall be accompanied by the fee indicated in paragraph (1)(R)2. of this rule. After receipt of the letter, the department will complete an inspection to determine whether the operator and facility are in compliance with **19 CSR 30-86.047**, **19 CSR 30-86.045**, if applicable, and other applicable laws and regulations. If the operator requests

an amended license referring to 19 CSR 30-86.047 and, if requested, 19 CSR 30-86.045, as part of its relicensure application, no additional fee will be charged.

(R) If an operator initiates a request to amend a license or temporary operating permit currently in effect, the *[division]* department requires the following fees—

1. If the request is for an increase in bed capacity, the operator shall submit a fee with the request which is the greater of—

A. The amount that would have been required by subsection (1)(I) of this rule if the increase in bed capacity has been included in the application, less any amount actually paid under that subsection; or

B. Fifty dollars (\$50); and

2. If the request is for a decrease in resident capacity or any other change, the operator shall submit a fee of twenty-five dollars (\$25) with the request.

(S) The *[division]* department shall approve all requests for bed changes prior to issuance of an amended license or temporary operating permit. The effective date of the amended license or temporary operating permit shall be no earlier than the date the *[division]* department approved the request for bed change.

(T) If the *[division]* department issues a temporary operating permit, and then issues a regular license later, the licensing period shall include the period of operation under the temporary operating permit. The licensing period shall also include any period during which the department was enjoined or stayed from revoking or denying a license or rendering the temporary operating permit null and void.

(V) The operator shall not provide care in any area on the premises to any related person who requires protective oversight unless there has been a written request to the *[division]* department to consider any portion of the facility for private use and that indicates facility staff shall not be used at any time to care for the relative(s). Prior to the area being used in that manner, the operator shall submit the request for the *[division's]* department's approval. The *[division]* department, after investigation, shall approve or disapprove the request in writing within thirty (30) days and shall issue or reissue the license indicating clearly which portion of the premises is excluded from licensure or which specific relative(s) is/are not considered a resident(s).

(2) If a facility was licensed under Chapter 197 or 198, RSMo and was in operation before September 28, 1979, or if an application was on file or construction plans were approved prior to September 28, 1979, the facility shall comply with construction, fire safety and physical plant rules applicable to an existing or existing licensed facility provided there has been continuous operation of the facility under a license or temporary operating permit issued by the division. If, however, there was an interruption in the operation of the facility due to license denial, license revocation or voluntary closure, the facility may be relicensed utilizing the same fire safety, construction and physical plant rules that were applicable prior to the license denial, license revocation or voluntary closure; provided that the facility reapplies for a license within one (1) year of the date of the denial, revocation or voluntary closure. **Regardless of licensure, application, or construction plan approval date, intermediate care facilities and skilled nursing facilities shall comply with the fire safety standards published in 19 CSR 30-85.022.**

(A) If a facility changes from a skilled nursing or intermediate care facility to any other level, or if the facility changes from *[a residential care facility II]* an assisted living facility to a residential care facility *III*, the facility shall comply with construction, fire safety and physical plant rules applicable to an existing or existing licensed facility as defined in *[13 CSR 15-11.010(8)]* **19 CSR 30-83.010.**

(B) If the facility changes from a residential care facility *III* to any other level or if *[a residential care facility II]* an assisted living facility changes to an intermediate care or skilled nursing facility, the

facility shall comply with construction, fire safety and physical plant rules applicable to a new or newly licensed facility as defined in *[13 CSR 15-11.010(17)]* **19 CSR 30-83.010.**

(C) The facility shall comply with the rules applicable to a new or newly licensed facility if an application for relicensure has not been filed with the *[Division of Aging]* department within one (1) year of the license denial, license revocation or voluntary closure. **All such facilities seeking licensure as an assisted living facility shall also comply with the requirements of 19 CSR 30-86.047 and, if applicable, 19 CSR 30-86.045.**

(3) If a licensed facility discontinues operation as evidenced by the fact that no residents are in care or at any time the *[division]* department is unable to freely gain entry into the facility to conduct an inspection, unless the facility operator has made special arrangements with the *[division]* department for temporary closure, the facility shall be considered closed. The *[division]* department shall notify the operator in writing requesting the voluntary surrender of the license. If the *[division]* department does not receive the license within thirty (30) days, it shall be void. Later, if operation is to resume, the operator shall file a new application and fee and the provisions of section (1) shall apply.

(4) The *[division]* department may grant exceptions for specified periods of time to any rule imposed by the *[division]* department if the *[division]* department has determined that the exception to the rule would not potentially jeopardize the health, safety or welfare of any residents of a long-term care facility.

(A) The owner or operator of the facility shall make requests for exceptions in writing to the director of the *[division]* department. These requests shall contain—

1. A copy of the latest Statement of Deficiencies which *[indicates]* shows a violation of the rule being cited, if the exception request is being made as a result of a deficiency issued during an inspection of the facility;

2. The section number and text of the rule being cited;

3. If applicable, specific reasons why compliance with the rule would impose an undue hardship on the operator, including an estimate of any additional cost that might be involved;

4. An explanation of any extenuating factors that may be relevant; and

5. A complete description of the individual characteristics of the facility or residents, or of any other factors that would safeguard the health, safety and welfare of the residents if the exception were granted.

(B) With the advice of the *[division's]* department's licensure inspection field staff, the *[division]* department will consider any requests that contain all the information required in subsection (4)(A). The *[division]* department shall notify the operator, in writing, of the decision on any request for an exception, stating the reason(s) for acceptance or denial, and, if granted, the length of time the exception is to be in effect and any additional corrective factors upon which acceptance may be conditioned.

(C) The *[division]* department shall only grant exceptions to licensure requirements set out in rules imposed by the *[division]* department and cannot grant exceptions to requirements established by state statute or federal regulations. Operators wishing to obtain waivers of regulations under Title XVIII or Title XIX of the Social Security Act shall follow procedures established by the *[Health Care Financing Administration (HCFA)]* Centers for Medicare and Medicaid (CMS).

(5) When the *[division]* department issues a notice of noncompliance to a facility pursuant to the Omnibus Nursing Home Act (section 198.026, RSMo), the *[division]* department, only after affording the facility operator a reasonable opportunity to remedy the situation, shall—

(A) Make every reasonable effort to provide residents of the facility or their *[responsible parties]* **legally authorized representatives or designees**, if any—

1. A written notice of the noncompliance;
2. A list of other licensed facilities appropriate to the resident's needs; and
3. A list of agencies that will assist the resident if he/she moves from the facility; and

(B) After providing the information required by subsection (5)(A) and allowing a time period for the residents of the facility to relocate if they wish, notify the Social Security Administration in writing that a notice of noncompliance has been issued to the facility, and the effective date of the notice. If the facility achieves substantial compliance with standards and rules later, the *[division]* **department** shall notify the Social Security Administration of the effective date of the facility's substantial compliance.

(6) A licensed facility shall comply with the provisions of Title VI of the Civil Rights Act 1964, as amended; Section 504 of the Rehabilitation Act of 1973; Title IX of the Education Amendment of 1972; the Age Discrimination Act of 1975; the Omnibus Budget and Reconciliation Act of 1982; the Americans with Disabilities Act of 1990; and the Keyes Amendment to the Social Security Act. No person shall be denied admission to, be denied benefits of, or be subjected to discrimination under any program, activity or service provided by the facility based on his/her race, color, national origin, sex, religion, age or disability, including Human Immunodeficiency Virus (HIV) or Acquired Immunodeficiency Syndrome (AIDS). Every licensed facility shall complete and sign *[an]* **form MO 580-2622 (9-05)**, Assurance of Compliance *[(MO Form 886-3131)]*, **incorporated by reference in this rule and available through the department's website at www.dhss.mo.gov or by telephone at (573) 526-8505 and file [it with the Division of Aging. The facility shall submit the signed assurance form with the application for license or with the first application for relicensure submitted after December 31, 1998.] the form with the application for licensure or relicensure. This rule does not incorporate any subsequent amendments or additions.**

(7) The *[division's central office in Jefferson City]* **department** shall make available to interested individuals without charge a single copy of—

(8) Every skilled nursing facility, intermediate care facility, *[and]* residential care facility **and assisted living facility** issued a license or temporary operating permit by the *[division]* **department** shall submit the required certificate of need quarterly surveys to the *[division]* **department** on or before the fifteenth day of the first month following the previous Social Security quarter. (For example, for the Social Security quarter ending December 31, the due date is by January 15; for the Social Security quarter ending March 31, the due date is by April 15; for the Social Security quarter ending June 30, the due date is by July 15; and for the Social Security quarter ending September 30, the due date is by October 15). The information shall be submitted on the ICF/SNF Certificate of Need Quarterly Survey form or the RCF/ALF Certificate of Need Quarterly Survey form *[(MO Form 886-900)]* **obtained from the Missouri Certificate of Need Program, PO Box 570, Jefferson City, MO 65102.**

AUTHORITY: Executive Order 77-9 of the Governor filed Jan. 31, 1979, effective Sept. 28, 1979, [Chapter 198, sections 207.020, 208.152, 251.070 and 536.023, RSMo 1994 and Supp. 1997,] sections 198.018, 198.076, 198.079 and 198.515, RSMo 2000, 198.022, RSMo Supp. 2005 and 198.005 and 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) This rule was originally filed as 13 CSR 15-10.010. Emergency rule filed Aug. 13, 1979, effective Oct. 1, 1979, expired Jan. 25, 1980. Original rule filed

Aug. 13, 1979, effective Dec. 13, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 23, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director of the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 30—Division of [Senior Services and]
Regulation and Licensure
Chapter 83—Definition of Terms**

PROPOSED AMENDMENT

19 CSR 30-83.010 Definition of Terms. The department is adding sections (3), (8), (10), (11), (13), (18), (21), (22), (23), (24), (25), (28), (43), (48) and (49), amending sections (1), (4), (10), (12), (14), (15) and (19) and renumbering sections (2) through (34).

PURPOSE: This amendment deletes the terms residential care facility I and II and replaces those terms with residential care facility and assisted living facility; defines the levels of care and adds definitions of "activities of daily living," "assisted living facility," "community based assessment," "convenience," "dementia," "discipline," "facility," "home-like," "individualized service plan," "instrumental activities of daily living," "intermediate care facility," "keeping residents in place," "long-term care services," "residential care facility," "skilled nursing facility" and "social model of care," and amended the terms "chemical restraint," "existing or existing licensed facility," "fire-resistant construction," "level I medication aide," "long-term care facility" and "new or newly licensed facility" in order to comply with CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006).

(1) Activities of daily living (ADL)—Shall mean one (1) or more of the following:

- (A) Eating;**
- (B) Dressing;**
- (C) Bathing;**
- (D) Toileting;**
- (E) Transferring; and**
- (F) Walking.**

[(1)](2) Administrator—Shall mean an individual person who is in general administrative charge of a facility.

(3) Assisted living facility (ALF)—Shall mean any premises, other than a residential care facility, intermediate care facility, or skilled nursing care facility, that is utilized by its owner, operator, or manager to provide twenty-four (24) hour services and protective oversight to three (3) or more residents who are provided with shelter, board, and who may need and are provided with the following:

(A) Assistance with any activities of daily living and any instrumental activities of daily living;

(B) Storage, distribution or administration of medications; and
(C) Supervision of health care under the direction of a licensed physician, provided that such services are consistent with a social model of care.

(D) The term “assisted living facility” does not include a facility where all of the residents are related within the fourth degree of consanguinity or affinity to the owner, operator, or manager of the facility.

[[2]] (4) Automated dispensing system—Shall mean a mechanical system that performs functions that may include, but are not limited to, storing, packaging or dispensing medications, and that collects, controls and maintains all transaction information.

[[3]] (5) Certified-medication technician—Shall mean a nursing assistant who has completed a course in medication administration approved by the Department of Health and Senior Services.

[[4]] (6) Chemical restraint—Shall mean *[any medication that is used for discipline or convenience and not required to treat medical symptoms. For the purposes of this definition, discipline means any action taken by the facility for the purpose of punishing or penalizing residents and convenience means any action taken by the facility to control a resident's behavior or maintain a resident with a lesser amount of effort by the facility and not in the resident's best interest.]* a psychopharmacologic medication that is used for discipline or convenience and not required to treat medical symptoms.

[[5]] (7) Communicable disease—Any illness, disease or condition reportable to the Missouri Department of Health and Senior Services as required by 19 CSR 20-20.010 and 19 CSR 20-20.020 is considered, for the context of these rules, a communicable disease.

(8) Community based assessment—Shall mean documented basic information and analysis provided by appropriately trained and qualified individuals describing an individual's abilities and needs in activities of daily living, instrumental activities of daily living, vision/hearing, nutrition, social participation and support, and cognitive functioning using an assessment tool approved by the Department of Health and Senior Services (the department), that is designed for community based services and that is not the nursing home minimum data set. The assessment tool may be one developed by the department or one used by a facility which has been approved by the department.

[[6]] (9) Control of medication—Shall mean assuming responsibility by the facility for all facets of control of medication including, but not limited to, acquisition, storage, security and administration.

(10) Convenience—Shall mean any action taken by the facility to control resident behavior or maintain residents with a lesser amount of effort by the facility and not in the resident's best interest.

(11) Dementia—Shall mean a general term for the loss of thinking, remembering, and reasoning so severe that it interferes with an individual's daily functioning, and may cause symptoms that include changes in personality, mood, and behavior.

[[7]] (12) Designee—Shall mean an individual who has been designated in writing by a resident to handle matters and receive reports related to his/her personal possessions and property.

(13) Discipline—Shall mean any action taken by the facility for the purpose of punishing or penalizing residents.

[[8]] (14) Emergency medical procedure—Shall mean those written policies and procedures which describe the types and degrees of acci-

dents and injuries, how they will be treated, by whom, in which instances the resident's physician will be notified and how quickly.

[[9]] (15) Emergency medication supply—Shall mean a limited number of dosage units of prescription medications that may be administered to a resident in an emergency situation or for initial doses of a necessary medication when a pharmacy cannot provide a prescription for a resident within a reasonable time based on the resident's clinical needs at the time.

[[10]] (16) Existing or existing licensed facility—Shall mean a long-term care facility which was licensed and in operation or one whose plans were approved prior to June 10, 1981 for a skilled or intermediate care facility or prior to November 13, 1980 for residential care facilities *[[I]]* and *[[II]]* assisted living facilities except as otherwise indicated in 19 CSR 30-86.012, 19 CSR 30-86.022 and 19 CSR 30-86.032.

[[11]] (17) Exit—Shall mean a door leading to the outside or through a horizontal exit in a fire wall to a fire-safe area in the building.

(18) Facility—Shall mean any residential care facility, assisted living facility, intermediate care facility or skilled nursing facility licensed by the department.

[[12]] (19) Fire-resistant construction—For intermediate care facilities and skilled nursing facilities, fire-resistant construction shall mean that a facility meets the specifications for Type II (222) or Type II (111) construction as given in the *National Fire Protection Association Code 220*. *[The definition of f]Fire-resistant construction for residential care facilities *[[I]]* and *[[II]]* assisted living facilities is [given in 19 CSR 30-86.022(2)(B)] defined in 19 CSR 30-86.022.*

[[13]] (20) Hazardous area—Shall mean furnace rooms other than electric forced air furnaces, laundries, kitchens, maintenance shops and storage rooms of over one hundred (100) square feet and any areas which contain combustible materials which will be either easily ignited, burn with an intense flame or result in the production of dense smoke and fumes.

(21) Home-like—means a self-contained long-term care setting that integrates the psychosocial, organizational and environmental qualities that are associated with being at home. Home-like may include, but is not limited, to the following:

(A) A living room and common use areas for social interactions and activities;

(B) Kitchen and family style eating area for use by the residents;

(C) Laundry area for use by residents;

(D) A toilet room that contains a toilet, lavatory and bathing unit in each resident's room;

(E) Resident room preferences for residents who wish to share a room, and for residents who wish to have private bedrooms;

(F) Outdoor area for outdoor activities and recreation; and

(G) A place where residents can give and receive affection, explore their interests, exercise control over their environment, engage in interactions with others and have privacy, security, familiarity and a sense of belonging.

(22) Individualized service plan—Shall mean the planning document prepared by an assisted living facility which outlines a resident's needs and preferences, services to be provided, and the outcomes expected for the resident.

(23) Instrumental activities of daily living (IADL)—Shall mean one (1) or more of the following activities:

(A) Preparing meals;

- (B) Shopping for personal items;
- (C) Medication management;
- (D) Managing money;
- (E) Using the telephone;
- (F) Housework; and
- (G) Transportation ability.

(24) Intermediate care facility—Shall mean any premises, other than a residential care facility, assisted living facility, or skilled nursing facility, which is utilized by its owner, operator, or manager to provide twenty-four (24) hour accommodation, board, personal care, and basic health and nursing care services under the daily supervision of a licensed nurse and under the direction of a licensed physician to three (3) or more residents dependent for care and supervision and who are not related within the fourth degree of consanguinity or affinity to the owner, operator or manager of the facility.

(25) Keeping residents in place—Shall mean maintaining residents in place during a fire in lieu of evacuation where a building's occupants are not capable of evacuation or where evacuation has a low likelihood of success.

[(14)] (26) Level I medication aide—Shall mean an individual who has completed a course approved by the *[Department of Health and Senior Services]* department in medication administration in a residential care *[type]* facility or assisted living facility.

[(15)] (27) Long-term care facility—Shall mean a facility that is licensed either solely or in combination as a skilled nursing facility, an intermediate care facility, a residential care facility *[[/]]* or *[a residential care facility]* *[[/]]* assisted living facility.

(28) Long-term care services—Shall mean the assistance and support that a resident receives in a residential care facility, assisted living facility, intermediate care facility and skilled nursing care facility, to meet the resident's individual need for nursing care, protective oversight, monitoring, medication management, social interactions, cooking, housekeeping, laundry and recreational activities.

[(16)] (29) Major fraction thereof—Shall mean anything over fifty percent (50%) of the number of occupied beds.

[(17)] (30) Major remodeling—Shall mean any remodeling of a long-term care facility which involves the addition of resident-use rooms, which affects fire safety or the structure of the building.

[(18)] (31) Multistory building—Shall mean any building with more than one (1) floor entirely above the grade. A floor that is partially below grade will be counted as the first story to determine sprinkler requirements only if it contains resident sleeping rooms.

[(19)] (32) New or newly licensed facility—Shall mean a long-term care facility whose plans are approved or which is licensed after June 10, 1981 for a skilled nursing or intermediate care facility or after November 13, 1980 for residential care facility *[[/]]* or *[[/]]* assisted living facility except as otherwise indicated in 19 CSR 30-86.012, 19 CSR 30-86.022 and 19 CSR 30-86.032.

[(20)] (33) Nursing personnel—Shall include any employee, including a nurse's aide or an orderly, who provides or assists in the provision of direct resident health care services.

[(21)] (34) Operator—Shall mean any person licensed or required to be licensed under the provisions of sections 198.003–198.096, RSMo, in order to establish, conduct or maintain a facility. The term

person required to be licensed shall mean any person having the following, as determined by the *[division]* department:

- (A) Ultimate responsibility for making and implementing decisions regarding the operation of facility;
- (B) Ultimate financial control of the operation of a facility; and
- (C) Legal right to possession of the premises on which a facility is located.

[(22)] (35) Person—Shall mean any individual, or any entity, including, but not limited to, a corporation, partnership, association, non-profit organization, fraternal organization, church or political subdivision of the state of Missouri.

[(23)] (36) Physical restraint—Shall mean any manual method or physical or mechanical device, material or equipment attached to or adjacent to the resident's body that the individual cannot remove easily which restricts freedom of movement or normal access to one's body. Physical restraints include, but are not limited to leg restraints, arm restraints, hand mitts, soft ties or vests, lap cushions and lap trays the resident cannot remove easily. Physical restraints also include facility practices that meet the definition of a restraint, such as the following:

- (A) Using side rails that keep a resident from voluntarily getting out of bed;
- (B) Tucking in or using Velcro to hold a sheet, fabric or clothing tightly so that a resident's movement is restricted;
- (C) Using devices in conjunction with a chair, such as trays, tables, bars or belts, that the resident cannot remove easily, that prevent the resident from rising;
- (D) Placing the resident in a chair that prevents a resident from rising; and
- (E) Placing a chair or bed so close to a wall that the wall prevents the resident from rising out of the chair or voluntarily getting out of bed.

[(24)] (37) Physician—Shall mean an individual licensed to practice medicine in the state of Missouri under Chapter 334, RSMo.

[(25)] (38) Premises—Shall mean any structure~~[[/s]]~~ that are in close proximity one to the other and which are located on a single piece of property.

[(26)] (39) Protective oversight—Shall mean an awareness twenty-four (24) hours a day of the location of a resident, the ability to intervene on behalf of the resident, supervision of nutrition, medication, or actual provisions of care and the responsibility for the welfare of the resident, except where the resident is on voluntary leave.

[(27)] (40) Qualified dietitian—Shall mean an individual who is registered by the American Dietetic Association or who is eligible for registration.

[(28)] (41) Qualified therapist—Shall mean an individual who is either registered or is eligible for registration by the national accrediting association for that therapy or, if applicable, is licensed by the state of Missouri for the practice of the profession in which s/he is engaged.

[(29)] (42) Qualified therapy assistant—Shall mean an individual who would be qualified as an occupational therapy or physical *[therapy]* therapist assistant as outlined in *[CFR 405.1101]* 42 CFR 484.4.

(43) Residential care facility (RCF)—Shall mean any premises, other than an assisted living facility, intermediate care facility, or skilled nursing facility, which is utilized by its owner, operator or manager to provide twenty-four (24) hour care to three (3) or more residents, who are not related within the fourth degree of

consanguinity or affinity to the owner, operator, or manager of the facility and who need or are provided with shelter, board, and with protective oversight, which may include storage and distribution or administration of medications and care during short-term illness or recuperation, except that, for purposes of eligible residents of facilities formerly licensed as residential care facilities II receiving supplemental welfare assistance payments, any residential care facility that was licensed as a residential care facility II on or before August 27, 2006 that continues to meet the licensure standards for a residential care facility II in effect on August 27, 2006 shall be considered a residential care facility II for purposes of its eligible residents receiving the cash grant payment amount allocated immediately prior to August 28, 2006 for residents of a residential care facility II pursuant to section 208.030, RSMo.

[(30)] (44) Responsible party—Shall mean an individual who has been designated in writing by the resident to handle matters and receive reports related to his/her general condition.

[(31)] (45) Self-administration of medication—Shall mean the act of actually taking or applying medication to oneself.

[(32)] (46) Self-control of medication—Shall mean assuming immediate responsibility by a resident for the storage and administration of medication for oneself while the facility retains ultimate control of medication.

[(33)] (47) Skilled nursing care—Shall mean services furnished pursuant to physicians' orders which require the skills of licensed nurses and which are provided directly by or under the on-site supervision of these personnel. Examples of skilled nursing care may include, but are not limited to: administration of levine tube or gastrostomy tube feedings; nasopharyngeal and tracheotomy aspiration; insertion of medicated or sterile irrigation solutions and replacement of catheters; administration of parenteral fluids; inhalation therapy treatments; administration of other treatments requiring aseptic technique; and administration of injectable medication other than insulin.

(48) Skilled nursing facility—Shall mean any premises, other than a residential care facility, assisted living facility or an intermediate care facility, which is utilized by its owner, operator or manager to provide for twenty-four (24) hour accommodation, board and skilled nursing care and treatment services to at least three (3) residents who are not related within the fourth degree of consanguinity or affinity to the owner, operator or manager of the facility. Skilled nursing care and treatment services are those services commonly performed by or under the supervision of a registered professional nurse for individuals requiring twenty-four (24) hours a day care by licensed nursing personnel including acts of observation, care and counsel of the aged, ill, injured or infirm, the administration of medications and treatments as prescribed by a licensed physician or dentist, and other nursing functions requiring substantial specialized judgment and skill.

(49) Social model of care—means long-term care services based on the abilities, desires, and functional needs of the individual delivered in a setting that is more home-like than institutional, that promote the dignity, individuality, privacy, independence and autonomy of the individual, that respects residents' differences and promotes residents' choices.

[(34)] (50) Voluntary leave—Shall mean an off-premise leave initiated by: a) a resident that has not been declared mentally incompetent or incapacitated by a court; or b) a legal guardian of a resident that has been declared mentally incompetent or incapacitated by a court.

AUTHORITY: sections 198.006, RSMo Supp. [2003] 2005 and 198.009, RSMo 2000, and 198.005 and 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)). Emergency rule filed Sept. 7, 1979, effective Sept. 28, 1979, expired Jan. 24, 1980. This rule originally filed as 13 CSR 15-11.010. Original rule filed Sept. 7, 1979, effective Jan. 12, 1980. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 23, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director of the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 30—Division of [Health Standards]
Regulation and Licensure
Chapter 84—Training Program for Nursing Assistants**

PROPOSED AMENDMENT

19 CSR 30-84.030 Level I Medication Aide. The department is amending sections (1), (6), (8), (9), (10), (11), (13), (14) and (15).

PURPOSE: This amendment deletes the terms residential care facility I and II used in this rule and replaces those terms with residential care facility and assisted living facility (ALF) for facilities licensed by the Department of Health and Senior Services pursuant to 198.005 and 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)), updates the educational material approved for the course, updates student qualifications relating to the Employee Disqualification List and criminal history, clarifies the training agencies that are eligible to apply for approval for a Level I Medication Aide Training Program and changes the name of the agency throughout the rule due to the transfer of the Division of Aging from the Department of Social Services to the Department of Health and Senior Services effective August 28, 2001.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) The [purpose of the]/Level I Medication Aide Training Program shall be **administered by the Department of Health and Senior Services (the department) in order to prepare individuals for employment as level I medication aides in residential care facilities (RCFs) [I and II] and assisted living facilities (ALFs).** The program shall be designed to teach skills in medication administration of nonparenteral medications in order to qualify students to perform this procedure only in RCFs [I and II] and ALFs in Missouri.

(6) The course developed by the Missouri Department of Elementary and Secondary Education and the *[Division of Aging] Department of Health and Senior Services* as outlined in the manual entitled *Level I Medication Aide [(IE 64-1)] (50-6064-S and 50-6064-I) 2001 edition*, produced by the Instructional Materials Laboratory, University of Missouri-Columbia, **incorporated by reference in this rule and available through the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570**, shall be **considered** the approved course curriculum. **This rule does not incorporate any subsequent amendments or additions to the materials incorporated by reference.** Students and instructors each shall have a copy of this manual.

(8) Student Qualifications.

(A) Any individual employable *[in] by an RCF [I or II] or ALF* to be involved in direct resident care shall be eligible to enroll as a student in *[this] the course [or to challenge the final examination]*. Employable shall mean an individual who is at least eighteen (18) years of age; not listed on the *[Missouri Division of Aging] department's* Employee Disqualification List (EDL) *[or any other state's disqualification list;]* and has not *[been found guilty of, pled guilty to,]* been convicted of, **or entered a plea of guilty or nolo contendere to a crime in this state or any other state, which if committed in Missouri would be a class A or B felony [under] violation of Chapters 565, 566, and 569, RSMo; a class D felony under], any violation of section 568.020, RSMo [1994] or any violation of section 198.070.3, RSMo [1994], unless a good cause waiver has been granted by the department pursuant to the provisions of 19 CSR 30-82.060.**

(9) Those persons wanting to challenge the final examination shall submit a request in writing to the *[Missouri Division of Aging] department's Section for Long Term Care director* enclosing applicable documentation. If approved to challenge the examination, a letter so stating will be sent from the division to present to an approved instructor so that arrangements can be made for testing.

(10) Instructor Qualifications.

(A) An instructor shall be currently licensed to practice as either a registered nurse or practical nurse in Missouri or shall hold a current temporary permit from the Missouri State Board of Nursing. The licensee shall not be subject to current disciplinary action such as censure, probation, suspension or revocation. If the individual is a licensed practical nurse, the following additional requirements shall be met:

[1. Shall not be waived; and]

[2.] 1. Shall be a graduate of an accredited program which has pharmacology in the curriculum.

2. This additional requirement shall not be waived.

(B) In order to be qualified as an instructor, the individual shall have had one (1) year's experience working in a long-term care (LTC) facility licensed by the *[Division of Aging] department* or the Department of Mental Health within the past five (5) years; or shall be currently employed in an LTC facility licensed by the *[Division of Aging] department* or the Department of Mental Health and shall have been employed by that facility for at least six (6) months; or shall be an instructor in a Health Occupations Education program; and shall have attended a "Train the Trainer" workshop to implement the *[[Level I Medication Aide Program]* conducted by a Missouri registered nurse presenter approved by the *[Missouri Division of Aging] department*.

(11) Sponsoring Agencies.

(A) The *[level I Medication Aide Training Program may be sponsored by] following entities are eligible to apply to the department to be an approved training agency:* an area vocational-technical school, a comprehensive high school, a community *[junior] college, [a college or university approved by the*

Department of Elementary and Secondary Education, a currently licensed] an approved four (4) year institution of higher learning or an RCF [I or II or an LTC association] or ALF licensed by the department.

(13) Records and Certification.

(A) Records.

1. The sponsoring agency shall maintain records of all individuals who have been enrolled in the *[[Level I Medication Aide Program]* and shall submit to the LTC association which approved the course all test booklets, a copy of the score sheets and a complete class roster.

2. A copy of the final record shall be provided to any individual enrolled in the course.

3. A final record may be released only with written permission from the student in accordance with the provisions of the Privacy Act (PL 90-247).

(B) Certification.

1. The LTC association which approved the course shall award a *[[Level I medication aide certificate]* to any individual successfully completing the course upon receiving the required final records and test booklets from the sponsoring agency.

2. The LTC association which approved the course shall submit to the *[Missouri Division of Aging] department* the names of all individuals receiving certificates.

(14) The *[division] department* shall maintain a list of LTC associations approved to handle the *[[Level I Medication Aide Training Program]*. In order for an LTC association to be approved by the *[division] department* the association shall enter into an agreement of cooperation with the *[division] department* which shall be renewable annually and shall effectively carry out the following responsibilities:

(D) Award certificates to individuals who successfully complete the course, provide the *[Division of Aging] department* with the names of those receiving certificates; and

(15) Maintaining Certification.

(A) If the *[division] department*, upon completion of an investigation, finds that the Level I *[M]medication [A]aide* has stolen or diverted drugs from a resident or facility or has had his/her name added to the employee disqualification list, the division shall delete such person's name from the *[division's] department's* Level I Medication Aide listing. Such deletion shall render the *[M]medication [A]aide's* certificate invalid.

AUTHORITY: sections 198.076, RSMo [1994] 2000 and 198.005 and 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)). This rule originally filed as 13 CSR 15-13.030. Original rule filed May 14, 1985, effective Sept. 1, 1985. Amended: Filed Oct. 16, 1985, effective Jan. 12, 1986. Amended: Filed May 26, 1998, effective Jan. 30, 1999. Moved to 19 CSR 30-84.030, effective Aug. 28, 2001. Amended: Filed Aug. 23, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director of the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 30—Division of [Health Standards]
Regulation and Licensure
Chapter 84—Training Program for Nursing Assistants**

PROPOSED AMENDMENT

19 CSR 30-84.040 Insulin Administration Training Program. The department is amending sections (1), (4), (6) and (9).

PURPOSE: This amendment deletes the terms *residential care facility I* and *II* used in this rule and replaces those terms with *residential care facility* and *assisted living facility (ALF)* for facilities licensed by the Department of Health and Senior Services pursuant to sections 198.005 and 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)), clarifies that all aspects of the training course as set forth in the rule must be met for an Insulin Administration Training Program to be approved, updates the educational material approved for the course, and changes the name of the agency throughout the rule due to the transfer of the Division of Aging from the Department of Social Services to the Department of Health and Senior Services effective August 28, 2001.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) The [purpose of the] Insulin Administration Training Program shall be **administered by the Department of Health and Senior Services (the department) in order** to prepare medication technicians in a skilled nursing **facility (SNF)** or intermediate care facility (ICF), or medication aides in a residential care facility (RCF) **// or //** or an **assisted living facility (ALF)** to administer insulin. The program shall be designed to present information on diabetes as it relates to symptoms and implications of proper or improper treatment, and to teach skills in insulin administration in order to qualify students to perform this procedure in long-term care (LTC) facilities in Missouri. **All aspects of the Insulin Administration Training course included in this rule shall be met in order for the program to be approved.**

(4) The manual entitled *Insulin Administration* (50-6080-S and 50-6080-I), [1990] **2001 edition**, produced by the Instructional Materials Laboratory, University of Missouri-Columbia, which is incorporated by reference in this rule, **and available through the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570**, shall be considered the approved course curriculum. **This rule does not incorporate any subsequent amendments or additions to the materials incorporated by reference.** Students and instructors shall each have a copy of the manual.

(6) Student Qualifications.

(A) Any level I medication aide working in an RCF **or ALF** who is recommended in writing for training by an administrator/manager or nurse with whom s/he has worked shall be eligible to enroll as a student in this course.

(9) Records.

(D) The [Division of Aging] **department** shall maintain a list of approved certifying agencies to handle issuance of certificates for the Insulin Administration Program. In order for an agency to be

approved by the [Division of Aging] **department** to be a certifying agency, it shall enter into an agreement of cooperation with the [Division of Aging] **department** which shall be renewable annually and the agency shall effectively carry out the following responsibilities:

1. Review all documents submitted by the instructor to assure that the instructor is qualified in accordance with section (7);

2. Assure that all program requirements have been met as set forth in these rules or as stipulated in the agreement with the [Division of Aging] **department**;

3. Issue certificates to individuals who successfully complete the course;

4. Provide the [Division of Aging] **department** with the names of those receiving certificates on at least a monthly basis; and

5. Maintain accurate and complete records for a period of at least two (2) years.

AUTHORITY: sections 198.009 [RSMo Supp. 1997] and 198.076, RSMo [1994] **2000 and 198.005 and 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006))**. This rule originally filed 13 CSR 15-13.040. Original rule filed Oct. 15, 1990, effective March 14, 1991. Amended: Filed May 26, 1998, effective Nov. 30, 1998. Moved to 19 CSR 30-84.040, effective Aug. 28, 2001. Amended: Filed Aug. 23, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director of the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities [I and II] and
Assisted Living Facilities**

PROPOSED AMENDMENT

19 CSR 30-86.012 Construction Standards for [New and Existing Residential Care Facilities II] Assisted Living Facilities and [Newly Licensed] Residential Care Facilities [I]. The department is adding new sections (1) and (27), amending sections (5), (8), (9), (11), (13), (15), (17), (24), and (25), and renumbering the sections throughout.

PURPOSE: This amendment deletes the terms *residential care facility I* and *II* used in this rule and replaces the term "*residential care facility I*" with "*residential care facility*." This rule also replaces the term "*residential care facility II*" with "*assisted living facility*." Additional changes clarify the construction standards applicable to assisted living facilities formerly licensed as residential care facilities II that were built or had plans approved before or after certain dates and adds construction requirements for a home-like environment.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome

or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

Editor's Note: All rules relating to long-term care facilities licensed by the [Division of Senior Services and Regulations] department are followed by a Roman Numeral which refers to the class (either class I, II or III) of standard as designated in section 198.085.1, RSMo 2000.

(1) These standards apply to assisted living facilities and residential care facilities as indicated in the rule.

[(1)] (2) A facility shall submit a copy of plans of proposed new construction, additions to or major remodeling of an existing facility to the Section for Long Term Care of the Department of Health and Senior Services (hereinafter—the department). If the facility is to be licensed for more than nine (9) residents, a registered architect or registered professional engineer shall prepare the plans and specifications for new construction or additions to an existing facility in conformance with Chapter 327, RSMo. III

[(2)] (3) Construction of facilities shall begin only after the plans and specifications have received the written approval of the department. Facilities shall then be built in conformance with the approved plans and specifications. The facility shall notify the department when construction begins. If construction of the project is not started within one (1) year after the date of approval of the plans and specifications and completed within a period of three (3) years, the facility shall resubmit plans to the department for its approval and shall amend them, if necessary, to comply with the then current rules before construction work is started or continued. III

[(3)] (4) If the facility employs more than fifteen (15) people, it shall conform with section 504 of the Rehabilitation Act of 1973. Any facility that houses handicapped residents shall have the first floor rooms and living areas designed to be accessible to these residents. III

[(4)] (5) Facilities shall not house residents on a level where the outside grade line is more than three feet (3') above the floor level on the window side of the room. II

[(5)] (6) Residential care facilities *II and III* and facilities whose plans were approved or which were initially licensed as **residential care facilities II** after December 31, 1987, shall provide a minimum of seventy (70) square feet per resident in private and multiple occupancy bedrooms. This square footage calculation shall include the floor space used for closets and built-in furniture and equipment if these are for resident use and the closet space does not exceed five (5) square feet per resident. Private bedrooms in existing *[residential care facilities II]* assisted living facilities and multiple occupancy bedrooms in residential care facilities *II and III* and facilities licensed as **residential care facilities II** between November 13, 1980 and December 31, 1987, shall have a minimum of sixty (60) square feet of floor space per resident. II

[(6)] (7) Ceilings in bedrooms shall be a minimum of seven feet (7') in height or if a room with sloping ceiling is used, only the area where the ceiling height is at least seven feet (7') can be used to meet the required minimum square footage per resident. II

[(7)] (8) Facilities shall provide bedrooms with at least one (1) functional outside window with screen. Window size shall be not less than one-twentieth (1/20) or five percent (5%) of the required floor area. II

[(8)] (9) Facilities shall provide resident rooms with a full nonlouvered door that swings into the room. *[Residential care facilities II]* Facilities formerly licensed as **residential care facilities II** and existing prior to November 13, 1980, are exempt from this requirement. II

[(9)] (10) Facilities shall permit no more than four (4) beds per bedroom, regardless of the room size. *[Residential care facilities II]* Facilities formerly licensed as **residential care facilities II** and existing prior to November 13, 1980, are exempt from this requirement. II

[(10)] (11) One (1) tub or shower bath shall be provided for each twenty (20) residents or major fraction of twenty (20). Facilities exceeding twenty (20) residents shall have separate bathing facilities for each sex. II

[(11)] (12) One (1) toilet and lavatory shall be provided for each six (6) residents or major fraction of six (6). *[Existing residential care facilities II]* Facilities formerly licensed as **residential care facilities II** and in operation or whose plans were approved prior to November 13, 1980 are required to provide one (1) toilet for each ten (10) beds or major fraction of ten (10) and one (1) lavatory for every fifteen (15) residents or major fraction of fifteen (15). II

[(12)] (13) Separate toilet rooms shall be provided for each sex if common rooms with multi-stalls and stools are provided. II

[(13)] (14) Bath and toilet facilities shall be conveniently located so that residents can reach them without passing through the kitchen, another bedroom or auxiliary service areas. *[Existing residential care facilities II]* Facilities formerly licensed as **residential care facilities II** and in operation or whose plans were approved prior to November 13, 1980 are exempt from this requirement. II

[(14)] (15) Bath and toilet facilities shall be ventilated. III

[(15)] (16) Residential care facilities *II and III* and facilities formerly licensed as **residential care facilities II** whose plans were approved or which were initially licensed as **residential care facilities II** after December 31, 1987, shall have a community living and dining area separate from resident bedrooms with at least twenty-five (25) square feet per resident. The community living and dining area may be combined with footage required for another long-term care facility when the facility is on the same premises as another licensed facility. *[Residential care facilities II]* Facilities licensed as **residential care facilities II** prior to November 13, 1980, must have a living room area but they are exempt from minimum size requirements. Residential care facilities *II and III* and facilities licensed as **residential care facilities II** between November 13, 1980 and December 31, 1987, shall have a community living area with twenty (20) square feet per resident for the first twenty (20) residents and an additional fifteen (15) square feet per resident over a census of twenty (20). II

[(16)] (17) Facilities shall provide the following in the dietary area: a kitchen, dishwashing, refrigeration, and garbage disposal facilities. The facility shall arrange the kitchen and equipment to efficiently and sanitarily enable the storage, preparation, cooking and serving of food and drink to residents. II

[(17)] (18) Residential care facilities *II and III* and assisted living facilities shall provide a designated attendant's working area which includes: a storage space for records; locked storage space for medications; a handwashing sink with hot and cold running water, a soap dispenser and paper towels; and a telephone conveniently located to the area. Facilities licensed for twelve (12) or fewer residents are exempt from a separate working area. III

[(18)] (19) Facilities shall have a laundry area in a separate room for storing, sorting, washing, drying and distributing linen and personal clothing. Laundry facilities of a licensed long-term care facility located on the same premises may be used. Facilities licensed for twelve (12) or fewer residents will be exempt from having a separate room for laundry but the laundry room shall be separate from the kitchen and shall not be located in a room used by residents. III

[(19)] (20) All newly licensed facilities shall be of sturdy construction with permanent foundations. III

[(20)] (21) In buildings built prior to September 28, 1979, corridors shall have a minimum width of thirty-six inches (36"). First-floor resident room doors shall be a minimum of thirty-two inches (32") wide. Resident room doors of these buildings on the second floor and above shall be a minimum of thirty inches (30") wide. II/III

[(21)] (22) In newly licensed buildings constructed on or after September 28, 1979, all resident room doors shall be a minimum of thirty-two inches (32") wide on all floors. Corridors shall be a minimum of forty-eight inches (48") wide and interior stairs shall be at least thirty-six inches (36") wide. II/III

[(22)] (23) Exit doors in newly licensed facilities shall be at least thirty-six inches (36") wide, at least seventy-two inches (72") high and shall swing outward. II/III

[(23)] (24) When the facility accepts deaf residents, residential care facilities *II* with an asleep night attendant shall have appropriate assistive devices to enable each deaf person to negotiate a path to safety, including, but not limited to, visual or tactile alarm systems. II/III

[(24)] (25) *[All r/Residential care facilities *II* and *II*] and facilities formerly licensed as residential care facilities *II** whose plans were initially approved between December 31, 1987 and December 31, 1998, shall have at least one (1) hydraulic or electric motor-driven elevator if there are more than twenty (20) residents with bedrooms above the first floor. The elevator installation(s) shall comply with all local and state codes, *[American Standards Association Specification (ASAS)] American Society for Mechanical Engineers (ASME) A17.1, Safety Code for Elevators, Dumbwaiters, and Escalators*, and the National Fire Protection Association's applicable codes. All facilities with plans approved on or after January 1, 1999, shall comply with all local and state codes, *[ASAS] ASME A17.1, 1993 Safety Code for Elevators and Escalators*, and the 1996 *National Electrical Code*. *[which,] These references are incorporated by reference in this rule and available at: American Society for Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990; and The American National Standards Institute, 11 West 42nd Street, 13th Floor, New York, NY 10036. This rule does not incorporate any additional amendments or additions. II*

[(25)] (26) *[All r/Residential care facilities *II* and *II*] and facilities* whose plans were approved or which were initially licensed as **residential care facilities *II*** after December 31, 1987, shall provide an air-conditioning system, or individual room air-conditioning units, capable of maintaining resident-use areas at eighty-five degrees Fahrenheit (85°F) (29.4°C) at the summer design temperature. II

(27) A facility that is built or has plans approved on or after August 28, 2006, shall be more home-like than institutional with respect to construction and physical plant standards. Any facility licensed as a residential care facility *II* prior to August 28, 2006, shall qualify as being more home-like than institutional with respect to construction and physical plant standards. II

AUTHORITY: sections 198.076, RSMo 2000 and 198.005 and 198.073, RSMo (CCS HCS SCS SB616, 93rd General Assembly, Second Regular Session (2006)). This rule originally filed as 13 CSR 15-15.012. Original rule filed July 13, 1983, effective Oct. 13, 1983. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 23, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director of the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities *II* and *II*] and
Assisted Living Facilities**

PROPOSED AMENDMENT

19 CSR 30-86.022 Fire Safety Standards for *[New and Existing] Residential Care Facilities *II* and *II*] and Assisted Living Facilities.* The department is amending sections (1), (2), (4), (5), (6), (8), (9) and (10), and adding sections (15) and (16).

PURPOSE: This amendment deletes the terms residential care facility *I* and *II* used in this rule and replaces the term "residential care facility *I*" with "residential care facility." This rule also replaces the term "residential care facility *II*" with "assisted living facility" and clarifies the definition of "area of refuge."

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

PUBLISHER'S NOTE: All rules relating to long-term care facilities licensed by the *[Division of Aging] department* are followed by a Roman Numeral notation which refers to the class (either class *I*, *II* or *III*) of standard as designated in section 198.085.1, RSMo. Supp. 1999.

(1) Definitions. For the purpose of this rule, the following definition shall apply:

(A) Area of refuge—A space located in or immediately adjacent to a path of travel leading to *[a public way]* an exit that is protected from the effects of fire, either by means of separation from other spaces in the same building or *[by virtue of]* its location, *[thereby]* permitting a delay in *[egress travel from any level]* evacuation. An area of refuge *[has a temporary use during egress. It generally serves as a staging area that provides relative safety to its occupants while potential emergencies are assessed, decisions are made, and mitigating activities are begun. Taking refuge within such an area is, thus, a stage*

of the total egress process; a stage between egress from the immediately threatened area and egress to a public way) may be temporarily used as a staging area that provides some relative safety to its occupants while potential emergencies are assessed, decisions are made, and evacuation has begun.

(2) General Requirements:

(A) All National Fire Protection Association (NFPA) codes and standards cited in this rule: NFPA 10, *Standard for Portable Fire Extinguishers*, 1994 edition; NFPA 13R, *Installation of Sprinkler Systems*, 1996 edition; NFPA 13, *Installation of Sprinkler Systems*, 1976 edition; NFPA 13 or NFPA 13R, *Standard for the Installation of Sprinkler Systems in Residential Occupancies Up to and Including Four Stories in Height*, 1999 edition; NFPA 13 or NFPA 13D, *Standard for the Installation of Sprinkler Systems*, 1999 edition; NFPA 13D, *Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes*, 1994 edition; NFPA 96, *Ventilation Control and Fire Protection of Commercial Cooking Operations*, 1994 edition; NFPA 101, *The Life Safety Code*, 2000 edition; NFPA 72, *National Fire Alarm Code*, 1996 edition; NFPA 72A, *Local Protective Signaling Systems*, 1975 edition; NFPA 25, *Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems*, 1998 edition; and NFPA 253, *Standard Method of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source*, 2000 edition with regard to the minimum fire safety standards for residential care facilities *[I and II]* and assisted living facilities are incorporated by reference in this rule and available for purchase from the National Fire Protection Agency, 1 Batterymarch Park, Quincy, MA 02269-9101; www.nfpa.org; by telephone at (617) 770-3000 or 1-800-344-3555. This rule does not incorporate any subsequent amendments or additions to the materials listed above.

(G) When the facility accepts residents who are deaf, residential care facilities *[I]* with an asleep night attendant shall have appropriate assistive devices to enable each deaf person to negotiate a path to safety, including, but not limited to, visual or tactile alarm systems. I/II

(4) Range Hood Extinguishing Systems.

(A) In facilities *[licensed]* formerly licensed as residential care facilities II on or after July 11, 1980, and residential care facilities formerly licensed as residential care facilities I on or before July 11, 1980, or in any facility with fewer than twenty-one (21) beds, the kitchen shall provide either:

1. An approved automatic range hood extinguishing system properly installed and maintained in accordance with the 1994 NFPA 96, *Standard on Ventilation Control and Fire Protection of Commercial Cooking Operations*; or

2. A portable fire extinguisher of at least ten (10) pounds, or the equivalent, in the kitchen area in accordance with the 1994 NFPA 10. II/III

(D) The range hood and its extinguishing system shall be inspected and certified at least twice annually in accordance with the 1994 edition of NFPA 96. II/III

(5) Fire Drills.

(A) All facilities shall develop a written plan for fire drills or other emergencies, and evacuation, and shall request consultation and assistance annually from a local fire unit. Such plan shall include, if consistent with the direction of the local fire unit and as appropriate for the fire or emergency, a phased response ranging from relocation of residents within the facility, to relocation to an area of refuge, to total evacuation. II/III

(6) Exits, Stairways and Fire Escapes.

(C) In residential care facilities and facilities formerly licensed as residential care facilities II, *[F]*/floors housing residents who require the use of a walker, wheelchair or other assistive devices or

aids, or who are blind, must have two (2) accessible exits to grade or such residents must be housed near accessible exits as specified in 19 CSR 30-86.042/(32)/(33) for residential care facilities and 19 CSR 30-86.043(31) for facilities formerly licensed as residential care facilities II. Unless otherwise prohibited by 19 CSR 30-86.045 or 19 CSR 30-86.047, *[F]*/facilities equipped with a complete sprinkler system, in accordance with the 1996 edition of NFPA 13 or NFPA 13R with sprinklered attics, and smoke partitions, as defined by subsection (9)(I) of this rule, may house such residents on floors that do not have accessible exits to grade if each required exit is equipped with an area of refuge as defined and described in subsections (1)(A) and (6)(D) of this rule. I/II

(8) Fire Alarm Systems.

(B) All residential care facilities *[I]* licensed for more than twenty (20) residents shall be equipped with a complete fire alarm system in accordance with the applicable edition of NFPA 72. I/II

(C) *[All residential care facilities II]* Facilities that are required to comply with the requirements of 19 CSR 30-86.043 shall be equipped with a complete fire alarm system in accordance with the applicable edition of NFPA 72. I/II

(D) All residential care facilities and assisted living facilities with more than one (1) structure on the premises housing residents shall be equipped with a complete fire alarm system in accordance with the applicable edition of NFPA 72. I/II

(F) Residential care facilities *[I]* licensed for twenty (20) or fewer residents shall be equipped with a complete automatic fire alarm system or individual home-type detectors. The individual home-type detectors shall be UL-approved battery-powered detectors which sense smoke and automatically sound an alarm which can be heard throughout the facility. If individual home-type detectors are being used, there shall be one (1) detector per resident-use room, in corridors and stairwells and in any hazardous area other than the kitchen where either a smoke or heat detector may be used. I/II

(G) The fire alarm system shall be an electrically supervised system with standby emergency power installed and maintained in accordance with the 1996 NFPA 72. Those facilities that are required to comply with the requirements of 19 CSR 30-86.042 and 19 CSR 30-86.043, with plans approved prior to October 1, 2000, shall comply with the provision of the 1975 edition of NFPA 72A, *Local Protective Signaling Systems*. *[Those facilities with plans approved on or after October 1, 2000, shall comply with the 1996 edition of NFPA 72.]* I/II

(H) *[As]* At a minimum, the fire alarm system shall consist of a manual pull station at or near each attendant's station and each required exit, smoke detectors located no more than thirty feet (30') apart in the corridors or passageways with no point in the corridor or passageway more than fifteen feet (15') from a detector and no point in the building more than thirty feet (30') from a detector. In residential care facilities formerly licensed as residential care facilities I and existing prior to November 13, 1980, and those facilities that are required to comply with the requirements of 19 CSR 30-86.043, smoke detectors located every fifty feet (50') will be acceptable. The smoke detectors will not be required in facilities licensed prior to November 13, 1980, if a complete heat detector system, interconnected to the fire alarm system, is provided in every space throughout the facility. It must include audible signal(s) which can be heard throughout the building and a main panel that interconnects all alarm-activating devices and audible signals. I/II

(N) Refer to section (16) of this rule for additional fire alarm standards for those assisted living facilities which provide services to residents with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance.

(9) Protection from Hazards.

(A) In *[residential care]* facilities *[I and II]* and assisted living facilities licensed on or after November 13, 1980, for more than

twelve (12) residents, hazardous areas shall be separated by construction of at least a one (1)-hour fire-resistant rating. In facilities equipped with a complete automatic fire alarm system, not individual residential-type detectors, the one (1)-hour fire separation is required only for furnace or boiler rooms. Hazardous areas equipped with a complete sprinkler system are not required to have this one (1)-hour fire separation. Doors to hazardous areas shall be self-closing and shall be kept closed unless an electromagnetic hold-open device is used which is interconnected with the fire alarm system. **Residential care facilities formerly licensed as residential care facilities I and existing prior to November 13, 1980, and facilities formerly licensed as residential care II facilities and existing prior to November 13, 1980, shall be exempt from this requirement. II**

(E) In *[residential care facilities II]* assisted living facilities that are required to comply with the requirements of 19 CSR 30-86.043 and were formerly licensed as residential care facilities II on or after November 13, 1980, each floor shall be separated by construction of at least a one (1)-hour fire resistant rating. Buildings equipped with a complete sprinkler system may have a nonrated smoke separation barrier between floors. Doors between floors must be a minimum of one and three-fourths inches (1 3/4") thick and be solid core wood doors or metal doors with an equivalent fire rating. II

(F) In *[residential care] facilities I and II licensed prior to November 13, 1980, and multi-storied residential care facilities II* licensed on or after November 13, 1980, there shall be a smoke separation barrier between the floors of resident-use areas and any floor below the resident-use area. This shall consist of a solid core wood door or metal door with an equivalent fire rating at the top or the bottom of the stairs. There shall not be a transom above the door that would permit the passage of smoke. II

(I) In facilities whose plans *[are]* were approved or which *[are]* were initially licensed after December 31, 1987, for more than twenty (20) residents, each floor used for resident bedrooms shall be divided into at least two (2) smoke sections by one (1)-hour rated smoke stop partitions. No smoke section shall exceed one hundred fifty feet (150') in length. If, however, neither the length nor width of a floor exceeds seventy-five feet (75'), no smoke stop partitions are required **unless the facility is required to comply with the requirements of 19 CSR 30-86.045 or 19 CSR 30-86.047**. Openings in smoke stop partitions shall be protected by solid core doors equipped with closers and magnetic hold-open devices. Any duct passing through this smoke wall shall be equipped with automatic resetting smoke dampers that are activated by the fire alarm systems. Smoke dampers are not required where both smoke sections are protected by Quick Response Sprinklers. Smoke partitions shall extend from outside wall-to-outside wall and from floor-to-floor or floor-to-roof deck. II

(J) Facilities whose plans *[are]* were approved or which *[are]* were initially licensed after December 31, 1987, for more than twenty (20) residents and which are unsprinklered shall have one (1)-hour rated corridor walls with one and three-quarters inch (1 3/4") solid core wood doors or metal doors with an equivalent fire rating. II

(L) Refer to section (16) of this rule for additional standards for those assisted living facilities which provide services to residents with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance.

(10) Sprinkler Systems.

(A) *[All residential care facilities II that are not of fire-resistant construction which house any residents above the second floor shall be provided throughout with]* In facilities that are required to comply with the requirements of 19 CSR 30-86.043, an automatic sprinkler system shall be installed and maintained according to the applicable edition of the NFPA 13, *Standard for the Installation of Sprinkler Systems*, if residents reside above the second floor and the facility is not of fire resistant construction. I/II

(B) Residential care facilities *[II]* that are not of fire-resistant construction and which house residents above the third floor shall be provided throughout with an automatic sprinkler system installed and maintained according to the applicable edition of the NFPA 13 or NFPA 13D, *Standard for the Installation of Sprinkler Systems in One- and Two-Story Dwellings and Manufactured Homes*. I/II

(D) All *[residential care]* facilities *[I and II]* initially licensed or with plans approved on or after October 1, 2000, shall have complete sprinkler systems installed and maintained in accordance with the 1996 edition of NFPA 13 or NFPA 13R, **except that multilevel assisted living facilities that are required to comply with the requirements in 19 CSR 30-86.045 and multilevel assisted living facilities built after August 28, 2006, shall provide a complete sprinkler system in accordance with the 1996 edition of NFPA 13**. Multilevel assisted living facilities with major renovations after August 27, 2006, shall provide a complete sprinkler system in accordance with the 1996 edition of NFPA 13 in the portion of the facility where the major renovation occurred. In areas where public water supplies are not available, a private water supply meeting the requirements of the 1994 edition of NFPA 13D, *Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes*, will be acceptable for all facilities **except multilevel assisted living facilities that are required to comply with the requirements of 19 CSR 30-86.045 or 19 CSR 30-86.047**. I/II

(G) Refer to section (16) of this rule for additional sprinkler system standards for those assisted living facilities which provide services to residents with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance.

(15) Standards for Designated Separated Areas.

(A) When a resident resides among the entire general population of the facility, the facility shall take necessary measures to provide such residents with the opportunity to explore the facility and, if appropriate, its grounds. When a resident resides within a designated, separated area that is secured by limited access, the facility shall take necessary measures to provide such residents with the opportunity to explore the separated area and, if appropriate, its grounds. If enclosed or fenced courtyards are provided, residents shall have reasonable access to such courtyards. Enclosed or fenced courtyards that are accessible through a required exit door shall be large enough to provide an area of refuge for fire safety at least thirty feet (30') from the building. Enclosed or fenced courtyards that are accessible through a door other than a required exit shall have no size requirements. II

(B) The facility shall provide freedom of movement for the residents to common areas and to their personal spaces. The facility shall not lock residents out of or inside their rooms. I/II

(C) The facility may allow resident room doors to be locked providing the residents request to lock their doors. Any lock on a resident room door shall not require the use of a key, tool, special knowledge or effort to lock or unlock the door from inside the resident's room. Only one (1) lock shall be permitted on each door. The facility shall ensure that facility staff have the means or mechanisms necessary to open resident room doors in case of an emergency. I/II

(D) Every facility shall use a personal electronic monitoring device for any resident whose physician recommends the use of such device. II

(E) The facility may provide a designated, separated area where residents, who are mentally incapable of negotiating a pathway to safety, reside and receive services and which is secured by limited access if the following conditions are met:

1. Dining rooms, living rooms, activity rooms, and other such common areas shall be provided within the designated, separated area. The total area for common areas within the designated, separated area shall be equal to at least forty (40) square feet per resident; II/III

2. Doors separating the designated, separated area from the

remainder of the facility or building shall not be equipped with locks that require a key to open; I/II

3. If locking devices are used on exit doors egressing the facility or on doors accessing the designated, separated area, delayed egress magnetic locks shall be used. These delayed egress devices shall comply with the following:

A. The lock must unlock when the fire alarm is activated;

B. The lock must unlock when the power fails;

C. The lock must unlock within thirty (30) seconds after the release device has been pushed for at least three (3) seconds, and an alarm must sound adjacent to the door;

D. The lock must be manually reset and cannot automatically reset; and

E. A sign shall be posted on the door that reads: **PUSH UNTIL ALARM SOUNDS, DOOR CAN BE OPENED IN 30 SECONDS.** I/II

4. The delayed egress magnetic locks may also be released by a key pad located adjacent to the door for routine use by staff. I/II

(16) Additional fire safety standards for assisted living facilities which provide services to residents with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance. All such facilities must comply with the following requirements:

(A) The facility shall be equipped with a complete electrically supervised fire alarm system in accordance with the provisions of subsection 13-3.4 of the 1997 *Life Safety Code for Existing Health Care Occupancy*, incorporated herein by reference and available from the National Fire Protection Agency, 1 Batterymarch Park, Quincy, MA 02269-9101. This rule does not incorporate any subsequent amendments or additions to these materials. At a minimum the system shall include smoke detectors located no more than thirty feet (30') apart in corridors with no point in the corridor located more than fifteen feet (15') from a smoke detector. The fire alarm system shall be equipped to automatically transmit an alarm to the fire department; I/II

(B) Each floor used for resident bedrooms shall be divided into at least two (2) smoke sections by one (1)-hour rated smoke stop partitions. No smoke section shall exceed one hundred fifty feet (150') in length. At a minimum, openings in smoke stop partitions shall be protected by one and three-fourths inches (1 3/4")-thick solid core wood doors or labeled, fire rated doors with an equivalent or greater fire rating. The doors shall be equipped with closures and if held open, shall be equipped with magnetic hold-open devices that automatically release upon activation of the fire alarm system. Any duct passing through this smoke wall shall be equipped with automatic resetting smoke dampers that are activated by the fire alarm system. Smoke dampers are not required where both smoke sections are protected throughout the entire section by quick response sprinklers on an NFPA 13 system. Smoke partitions shall extend from outside wall-to-outside wall and from floor-to floor or floor-to-roof deck; II and

(C) In addition to the requirements at subsections (4)(A)1. and 2. of this rule, all facilities shall be equipped with a complete automatic sprinkler system installed and maintained in accordance with the following:

1. The 1996 edition of the National Fire Protection Association (NFPA) 13, *Standard for the Installation of Sprinkler Systems* (1996 edition of NFPA 13); or

2. The 1996 edition of NFPA 13R, *Sprinkler Systems in Residential Occupancies Up To and Including Four Stories in Height* (1996 edition of NFPA 13R), which are incorporated herein by reference and available from the National Fire Protection Agency, 1 Batterymarch Park, Quincy, MA 02269-9101. This rule does not incorporate any subsequent amendments or additions to these materials; and

3. Single story facilities must comply with either NFPA 13 or

NFPA 13R;

4. Multistory facilities must comply with NFPA 13. I/II

AUTHORITY: sections 198.076, RSMo 2000 and 198.005 and 198.073, RSMo (CCS HCS SCS SB616, 93rd General Assembly, Second Regular Session (2006)). This rule originally filed as 13 CSR 15-15.022. Original rule filed July 13, 1983, effective Oct. 13, 1983. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 23, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director, Division of Regulation and Licensure, Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 30—Division of Regulation and Licensure Chapter 86—Residential Care Facilities [I and II] and Assisted Living Facilities

PROPOSED AMENDMENT

19 CSR 30-86.032 Physical Plant Requirements for [New and Existing] Residential Care Facilities [I and II] and Assisted Living Facilities. The department is amending sections (1), (3), (7), (10), (11), (13), (18) and (33) and adding a new section (35).

PURPOSE: This amendment deletes the term "residential care facility I" used in this rule and replaces the term with "residential care facility" and deletes the term "residential care facility II" used in this rule and replaces the term "residential care facility II" with "assisted living facility." The amendment deletes the definition of "respite care," adds the definition of "home-like" and requirements for a wireless call system. This amendment clarifies the requirements for non-licensed and licensed adult daycare programs, handrails and grab bars affixed in toilets and bathing areas, wood-burning stoves and electrical appliance approval standards and that facilities shall be more home-like than institutional with respect to construction and physical plant standards.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

Editor's Note: All rules relating to long-term care facilities licensed by the [Division of Senior Services and Regulation] department are followed by a Roman Numeral notation which refers to the class (either class I, II or III) of standard as designated in section 198.085.1, RSMo 2000.

(1) Definitions. For the purpose of this rule, the following definitions shall apply:

[(A)] **Non-licensed adult day care program** shall mean a group program designated to provide care and supervision to meet the needs of four (4) or fewer impaired adults for periods of less than twenty-four (24) hours but more than two (2) hours per day in a long-term care facility.

(B) **Respite care** shall mean short-term care and health services to an impaired individual who is at least seventeen (17) years of age and who receives care or supervision that is normally provided in home by his or her family or other caregiver.]

[(C)] **(A)** Adult day health care program shall mean a program operated by a provider certified to provide Medicaid-reimbursed adult day health care services to Medicaid-eligible participants in accordance with 19 CSR 70-92.010[.];

[(D)] **(B)** Associated adult day health care program shall mean an adult day health care program, which is connected physically with a licensed long-term care facility but has separate designated space for an adult day health care program which is above the licensed space requirement for the long-term care residents. An associated adult day health care program may share, in part, staff, equipment, utilities, dietary and security with the connected long-term care facility. Recipients of adult day health care program may participate with the residents of the long-term care facility for some activities and programs[.];

(C) Home-like—means a self-contained long-term care setting that integrates the psychosocial, organizational and environmental qualities that are associated with being at home. Home-like may include, but is not limited to the following:

1. A living room and common use areas for social interactions and activities;
2. Kitchen and family style eating area for use by the residents;
3. Laundry area for use by residents;
4. A toilet room that contains a toilet, lavatory and bathing unit in each resident's room;
5. Resident room preferences for residents who wish to share a room, and for residents who wish to have private bedrooms;
6. Outdoor area for outdoor activities and recreation; and
7. A place where residents can give and receive affection, explore their interests, exercise control over their environment, engage in interactions with others and have privacy, security, familiarity and a sense of belonging; and

(D) Non-licensed adult day care program shall mean a group program designated to provide care and supervision to meet the needs of four (4) or fewer impaired adults for periods of less than twenty-four (24) hours but more than two (2) hours per day in a long-term care facility.

(3) Only activities necessary to the administration of the facility shall be contained in any building used as a long-term care facility except as follows:

(B) Adult day care may be provided for four (4) or fewer participants without prior written approval of the department if the long-term care facility meets the following stipulations:

1. The operation of the adult day care business shall not interfere with the care and delivery of services to the long-term care residents;
2. The facility shall only accept participants in the adult day care program appropriate to the level of care of the facility and whose needs can be met;
3. The facility shall not change the physical layout of the facility without prior written approval of the department;
4. The facility shall provide a private area for adult day care residents to nap or rest;
5. Adult day care participants shall **not** be included in the cen-

sus, and *[the licensed capacity of the long-term care facility shall not be exceeded]* the number of adult day care participants shall not be more than four (4) above the licensed capacity of the facility; and

6. The adult day care participants, while on-site, are to be included in the determination of staffing patterns for the long-term care facility;

(C) An associated adult day health care program may be operated without prior written approval if the provider of the adult day health care services is certified in accordance with 19 CSR 70-92.010. **II/III**

[(D)] **Respite care** may be provided without prior written approval if the facility meets the following stipulations:

1. The operation of the respite care business shall not interfere with the care and delivery of services to the long-term care residents;
2. The facility shall only accept individuals in the respite care program appropriate to the level of care of the facility and whose needs can be met;
3. The facility shall not change the physical layout of the facility without prior written approval of the department;
4. The facility shall admit the respite care resident into a long-term care resident room;
5. Respite care residents shall be included in the census, and the licensed capacity of the long-term care facility shall not be exceeded; and
6. The respite care residents shall be included in the determination of staffing patterns for the long-term care facility. **II/III]**

(7) Newly licensed facilities shall have handrails and grab bars affixed in all toilet and bathing areas. Existing licensed facilities shall have handrails and grab bars available in at least one (1) bath and toilet area. **The foregoing requirements are applicable to residential care facilities. All assisted living facilities shall have handrails and grab bars affixed in all toilet and bathing areas. II**

(10) In newly licensed facilities or if a new heating system is installed in an existing licensed facility, the heating of the building shall be restricted to steam, hot water, permanently installed electric heating devices or a warm air system employing central heating, plants with installation such as to safeguard the inherent fire hazard, or approved installation of outside wall heaters which bear the approved label of the American Gas Association or National Board of Fire Underwriters. **The foregoing requirements are applicable to residential care facilities. In assisted living facilities, the heating of the building shall be restricted to steam, hot water, permanently installed electric heating devices or a warm air system employing central heating plants with installation such as to safeguard the inherent fire hazard, or approved installation of outside wall heaters which bear the approved label of the American Gas Association or National Board of Fire Underwriters. [A/] For all facilities, oil or gas heating appliances shall be properly vented to the outside[.] and [7]the use of portable heaters of any kind is prohibited. If approved wall heaters are used, adequate guards shall be provided to safeguard residents. I/II**

(11) Wood-burning stoves shall not be installed in newly licensed facilities or in existing licensed facilities that did not previously have a wood-burning stove. If wood-burning stoves are used in an existing licensed facility, or wood-burning furnaces or fireplaces are used, flues or chimneys shall be maintained in good condition and kept free of accumulation of combustible materials. **The foregoing requirements are applicable to residential care facilities. Wood-burning stoves shall not be installed in assisted living facilities. II**

(13) In facilities that are constructed or have plans approved after July 1, 2005, electrical wiring shall be installed and maintained in

accordance with the requirements of the *National Electrical Code*, 1999 edition, National Fire Protection Association, Inc. [*One Batterymarch Park, Quincy, Massachusetts 02269*], incorporated by reference **in this rule and available by mail at One Batterymarch Park, Quincy, MA 02269**, and local codes. **This rule does not incorporate any subsequent amendments or additions to the materials incorporated by reference.** Facilities built between [*July 1, 2005 and*] September 28, 1979 **and July 1, 2005** shall be maintained in accordance with the requirements of the *National Electrical Code*, which was in effect at the time of the original plan approval and local codes. This rule does not incorporate any subsequent amendments or additions. In facilities built prior to September 28, 1979, electrical wiring shall be maintained in good repair and shall not present a safety hazard. All facilities shall have wiring inspected every two (2) years by a qualified electrician. II/III

(18) If extension cords are used, they must be Underwriters' Laboratory (UL)-approved **or shall comply with other recognized electrical appliance approval standards** and sized to carry the current required for the appliance used. Only one (1) appliance shall be connected to one (1) extension cord and only two (2) appliances may be served by one (1) duplex receptacle. If extension cords are used, they shall not be placed under rugs, through doorways or located where they are subject to physical damage. II/III

(33) All [*new and existing residential care facilities II*] **assisted living facilities** and all residential care facilities[*I*] whose plans are approved or which are initially licensed for more than twelve (12) residents after December 31, 1987 shall be equipped with a call system consisting of an electrical intercommunication system, **a wireless pager system**, buzzer system or hand bells. An acceptable mechanism for calling attendants shall be located in each toilet room and resident bedroom. Call systems for facilities whose plans are approved or which are initially licensed after December 31, 1987 shall be audible in the attendant's work area. II/III

(35) **A facility that is built or has plans approved on or after August 28, 2006, shall be more home-like than institutional with respect to construction and physical plant standards. Any facility licensed as a residential care facility II prior to August 28, 2006, shall qualify as being more home-like than institutional with respect to construction and physical plant standards. II**

AUTHORITY: sections 198.076, RSMo 2000 and 198.005 and 198.073, (CCS HCS SCS SB616, 93rd General Assembly, Second Regular Session (2006)). This rule originally filed as 13 CSR 15-15.032. Original rule filed July 13, 1983, effective Oct. 13, 1983. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 23, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in aggregate.

PRIVATE COST: This proposed amendment will cost facilities formerly licensed as residential care facilities II a total one-time cost in the aggregate of six thousand one hundred sixty-one dollars (\$6,161).

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director, Senior Services, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

FISCAL NOTE PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	19 CSR 30-86.032 Physical Plant Requirements for Residential Care Facilities and Assisted Living Facilities
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
37	Facilities formerly Licensed as Residential Care Facility II	Total One-Time Cost in the Aggregate \$6,161*

III. and IV. WORKSHEET AND ASSUMPTIONS

Beginning February, 1980, regulations have required residential care facility IIs to install handrails in all toilet areas and grab bars in all bathing areas. According to DHSS licensure records, 53 residential care facility IIs were existence prior to February, 1980. Based on comments received from the long term care industry DHSS estimates 70% of the 53 total existing residential care facility IIs in existence prior to February, 1980, will choose to comply with Assisted Living Facility standards ($53 \times .70 = 37$). All costs are based on this percentage (37 facilities).

Handrails and Grab Bars – This proposed rule requires assisted living facilities to have handrails affixed in all toilet areas and grab bars affixed in all bathing areas. According to a national home improvement store, the cost of a handrail is \$13.58 and the cost of a grab bar is \$10.96. According to a local contractor, cost for contract labor to install handrails and grab bars is \$30 per hour. DHSS estimates two hours of contract labor per facility to install handrails and grab bars. Current requirements for new facilities (facilities licensed after February, 1980) require facilities to have a toilet area for every 6 licensed beds and a bathing area for every ten licensed beds. Current requirements for existing facilities (facilities licensed prior to February, 1980) require only one toilet area to have a hand rail and only one bathing area to have a grab bar. Based on current requirements for new facilities, DHSS estimates each assisted living facility will need to install six additional grab bars ($15,515 \text{ bed capacity in residential care facility IIs} / 365 \text{ total facilities} / (6 \text{ number of licensed beds requiring a toilet area}) - (1 \text{ bathing area currently required for existing facilities})$) and three additional handrails ($15,515 \text{ bed capacity in residential care facility IIs} / 365 \text{ total facilities} / (10 \text{ number of licensed heds requiring a bathing area}) - (1 \text{ bathing area currently required for existing facilities})$). DHSS estimates the total one time cost to assisted living facilities in the aggregate to be \$6,161 ($\$65.76 \text{ cost of six grab bars} + \$40.74 \text{ cost of three handrails} \times (37 \text{ facilities}) + (\$60 \text{ cost of two contract labor hours} \times 37 \text{ facilities})$).

*** At an August 7,2006 public meeting, various members of the long term care industry verbally reported various estimated costs for specific requirements, but did not elaborate how they reached these conclusions.**

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 30—Division of Regulation and Licensure Chapter 86—Residential Care Facilities [I and II] and Assisted Living Facilities

PROPOSED AMENDMENT

19 CSR 30-86.042 Administrative, Personnel and Resident Care Requirements for New and Existing Residential Care Facilities [I and II]. The department is adding new sections (1), (11), (12), (18), (19), (20), (22), (33), (34), (37), (41), (43), (47), (48), (49), (52), (53), (54), (55), (56), (58), and (59); amending sections (2), (3), (4), (7), (8), (9), (10), (11), (13), (17), (19), (24), (26), (28), (29), (32), (37), (46), (47), (48), (50), (51), (55), (59), (60), and (61); deleting sections (1), (6), (12), (18), (25), (30), (34), (38), (40), (41), (42), (43), (44), (45), (49), (52), (53), (54), (56), and (57), and renumbering and reordering sections throughout.

PURPOSE: *This amendment changes the name of the agency throughout the rule due to the transfer of the Division of Aging from the Department of Social Services to the Department of Health and Senior Services; deletes all references to residential care facilities I and II, replaces the term “residential care facility I” with “residential care facility,” defines the terms “department,” “outbreak” and significant change; adds, updates or clarifies requirements for criminal background check and Employee Disqualification List; medication standards; administration and personnel requirements, adult day care, new employee orientation, requirements for meeting the needs of residents having psychosocial difficulties, behavior management difficulties, including disruptive or assaultive behaviors; requirements for protective oversight when residents are on voluntary leave from the facility and the statutorily mandated orientation training requirements for Alzheimer’s disease and related dementias.*

Editor’s Note: *All rules relating to long-term care facilities licensed by the [Division of Aging] department are followed by a Roman Numeral notation which refers to the class (either class I, II or III) of standard as designated in section 198.085.1, RSMo 1986.*

[(1) For a residential care facility II, a person shall be designated to be administrator who is currently licensed as a nursing home administrator under Chapter 344, RSMo. II]

(1) Definitions. For the purpose of this rule, the following definitions shall apply:

(A) Department—Department of Health and Senior Services; and

(B) Outbreak—an occurrence in a community or region of an illness(es) similar in nature, clearly in excess of normal expectancy and derived from a common or a propagated source.

(2) For a residential care facility [II], a person shall be designated as administrator/manager who is either currently licensed as a nursing home administrator or is at least twenty-one (21) years of age, has never been convicted of an offense involving the operation of a long-term care or similar facility and who attends at least one (1) continuing education workshop within each calendar year given by or approved by the [Division of Aging] department. When used in this chapter of rules, the term manager shall mean that person who is designated by the operator to be in general administrative charge of a residential care facility [II]. It shall be considered synonymous to “administrator” as defined in section 198.006, RSMo and the terms administrator and manager may be used interchangeably. II/III

(3) *[By January 1, 1991, t/*The administrator/manager of a residential care facility *I or II] shall have successfully completed the state approved Level I Medication Aide course unless [s/he] he or*

she is a physician, pharmacist, licensed nurse or a certified medication technician, or if the facility is operating in conjunction with a skilled nursing facility or intermediate care facility on the same premises, or, for [a residential care facility II] an assisted living facility, if the facility employs on a full-time basis, a licensed nurse who is available seven (7) days per week. II/III

(4) The operator shall be responsible to assure compliance with all applicable laws and regulations. The administrator/manager shall be fully authorized and empowered to make decisions regarding the operation of the facility and shall be held responsible for the actions of all employees. The administrator/manager’s responsibilities shall include oversight of residents to assure that they receive *[appropriate] care appropriate to their needs. II/III*

[(6) For a residential care facility II, the administrator cannot be listed or function in more than one (1) facility at the same time unless s/he serves no more than four (4) facilities which are within a thirty (30)-mile radius and licensed to serve in total no more than one hundred (100) residents. However, one (1) administrator may serve as the administrator of more than one (1) licensed facility if all facilities are on the same premises. II/III]

[(7)] (6) The administrator/manager shall designate, in writing, a staff [person] member in charge in [his/her] the administrator/manager’s absence. [For a residential care facility II, if the administrator is absent for more than thirty (30) consecutive days, during which time s/he is not readily accessible for consultation by telephone with the person in charge, or if the administrator is absent from the facility for more than sixty (60) working days during the course of a calendar year, the person designated to be in charge shall be a licensed nursing home administrator.] II/III

[(8)] (7) The facility shall not care for more residents than the number for which the facility is licensed. If the facility operates a non-licensed adult day care program within the licensed facility, the day care participants shall be counted in the staffing determination during the hours the day care participants are in the facility. II/III

[(9)] (8) The facility’s current license shall be posted in a conspicuous place and notices provided to the facility by the [Division of Aging] department granting exception(s) to regulatory requirements shall be posted alongside of the facility’s license. III

[(10)] (9) All personnel responsible for resident care shall have access to the legal name of each resident, name and telephone number of resident’s physician [and next of kin or, responsible party], resident’s designee or legally authorized representative in the event of emergency. II/III

[(11)] (10) All persons who have any contact with the residents in the facility shall not knowingly act or omit any duty in a manner which would materially and adversely affect the health, safety, welfare or property of residents. No person who is listed on the Employee Disqualification List (EDL) maintained by the [division] department as required by section 198.070, RSMo shall work or volunteer in the facility in any capacity whether or not employed by the operator. For the purpose of this rule, a volunteer is an unpaid individual formally recognized by the facility as providing a direct care service to residents. The facility is required to check the EDL for individuals who volunteer to perform a service for which the facility might otherwise have to hire an employee. The facility is not required to check the EDL for individuals or groups such as scout groups, bingo or sing-along leaders. The facility is not required to check the EDL for an individual such as a priest,

minister or rabbi visiting a resident who is a member of the individual's congregation. However, if the minister, priest or rabbi serves as a volunteer facility chaplain, the facility is required to check the EDL since the individual would have potential contact with all residents. I/II

[(12)] (11) [Effective August 28, 1997, each facility shall, not later than two (2) working days of the date an applicant for a position to have contact with residents is hired, request a criminal background check, as provided in sections 43.530, 43.540 and 610.120, RSMo. Each facility must maintain in its record documents verifying that the background checks were requested and the nature of the response received for each such request. The facility must ensure that any applicant who discloses prior to the check of his/her criminal records that he/she has been convicted of, plead guilty or *nolo contendere* to, or has been found guilty of any A or B felony violation of Chapter 565, 566, or 569, RSMo, or any violation of subsection 3 of section 198.070, RSMo, or of section 568.020, RSMo, will not be allowed to work in contact with patients or residents until and unless a check of the applicant's criminal record shows that no such conviction occurred. II/III] Prior to allowing any person who has been hired in a full-time, part-time or temporary position to have contact with any residents the facility shall, or in the case of temporary employees hired through or contracted for an employment agency, the employment agency shall prior to sending a temporary employee to a provider:

(A) Request a criminal background check for the person, as provided in section 43.540, RSMo. Each facility must maintain in its record documents verification that the background checks were requested and the nature of the response received for each such request. II

1. The facility must ensure that any applicant or person hired or retained who discloses prior to the receipt of the criminal background check that he or she has been convicted of, pled guilty or pled *nolo contendere* to in this state or any other state or has been found guilty of a crime, which if committed in Missouri would be a class A or B felony violation of Chapter 565, 566, or 569, RSMo or any violation of subsection 198.070.3, RSMo or of section 568.020, RSMo, will not have contact with residents. I/II

2. Upon receipt of the criminal background check, the facility must ensure that if the criminal background check indicates that the person hired or retained by the facility has been convicted of, pled guilty or pled *nolo contendere* to in this state or any other state or has been found guilty of a crime, which if committed in Missouri would be a class A or B felony violation of Chapter 565, 566, or 569, RSMo or any violation of subsection 198.070.3, RSMo or of section 568.020, RSMo, the person will not have contact with residents unless the facility obtains verification from the department that a good cause waiver has been granted and maintains a copy of the verification in the individual's personnel file; I/II

(B) Make an inquiry to the department, whether the person is listed on the Employee Disqualification List as provided in section 660.315, RSMo. The inquiry may be made via Internet at www.dhss.mo.gov/EDL/; II/III

(C) If the person has registered with the department's Family Care Safety Registry (FCSR), the facility may utilize the Registry in order to meet the requirements of subsections 11(A) and (11) (B) of this rule. The FCSR is available via Internet at www.dhss.mo.gov/EDL/; and II/III

(D) For persons for whom the facility has contracted for professional services (i.e., plumbing or air conditioning repair) that will have contact with any resident, the facility must require a criminal background check or ensure that the individual is accompanied by a facility staff person while in the facility. I/II

(12) A facility shall not employ as an agent or employee who has access to controlled substances any person who has been found guilty or entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States for any offense related to controlled substances. II

(A) A facility may apply in writing to the department for a waiver of this section for a specific employee.

(B) The department may issue a written waiver to a facility upon determination that a waiver would be consistent with the public health and safety. In making this determination, the department shall consider the duties of the employee, the circumstances surrounding the conviction, the length of time since the conviction was entered, whether a waiver has been granted by the department's Bureau of Narcotics and Dangerous Drugs pursuant to 19 CSR 30-1.034 when the facility is registered with that agency, whether a waiver has been granted by the federal Drug Enforcement Administration (DEA) pursuant to 21 CFR 1301.76 when the facility is also registered with that agency, the security measures taken by the facility to prevent the theft and diversion of controlled substances, and any other factors consistent with public health and safety. II/III

(13) The facility must develop and implement written policies and procedures which require that persons hired for any position which is to have contact with any patient or resident have been informed of their responsibility to disclose their prior criminal history to the facility as required by section 660.317.5, RSMo. The facility must also develop and implement policies and procedures which ensure that the facility does not knowingly hire, after August 28, 1997, any person who has or may have contact with a patient or resident, who has been convicted of, plead guilty or *nolo contendere* to, in this state or any other state, or has been found guilty of any class A or B felony violation of Chapter 565, 566 or 569, RSMo, or any violation of subsection 3 of section 198.070, RSMo, or of section 568.020, RSMo. II/III

(17) The administrator/manager shall be responsible [for monitoring the health of the employees] for preventing an employee known to be diagnosed with communicable disease from exposing residents to such disease. The facility's policies and procedures must comply with the department's regulations pertaining to communicable diseases, specifically 19 CSR 20-20.010 through 19 CSR 20-20.100. II /III

(18) [Prior to or on the first day that a new employee works in the facility s/he shall receive orientation of at least one (1) hour appropriate to his/her job function. This shall include, at a minimum, job responsibilities, how to handle emergency situations, the importance of infection control and handwashing, confidentiality of resident information, preservation of resident dignity, how to report abuse/neglect to the Division of Aging (1-800-392-0210), information regarding the Employee Disqualification List and, instruction regarding the rights of residents and protection of property. II/III] The facility shall screen residents and staff for tuberculosis as required for long-term care facilities by 19 CSR 20-20.100. II

(19) Prior to or on the first day that a new employee works in the facility he or she shall receive orientation of at least one (1) hour appropriate to his or her job function. This shall include at least the following:

- (A) Job responsibilities;
- (B) Emergency response procedures;
- (C) Infection control and handwashing procedures and requirements;
- (D) Confidentiality of resident information;
- (E) Preservation of resident dignity;
- (F) Information regarding what constitutes abuse/neglect and how to report abuse/neglect to the department (1-800-392-0210);

(G) Information regarding the Employee Disqualification List;
(H) Instruction regarding the rights of residents and protection of property; and
(I) Instruction regarding working with residents with mental illness. II/III

(20) In addition to the orientation training required in section (19) of this rule any facility that provides care to any resident having Alzheimer's disease or related dementia shall provide orientation training regarding mentally confused residents such as those with Alzheimer's disease and related dementias as follows:

(A) For employees providing direct care to such persons, the orientation training shall include at least three (3) hours of training including at a minimum an overview of mentally confused residents such as those having Alzheimer's disease and related dementias, communicating with persons with dementia, behavior management, promoting independence in activities of daily living, and understanding and dealing with family issues; and II/III

(B) For other employees who do not provide direct care for, but may have daily contact with, such persons, the orientation training shall include at least one (1) hour of training including at a minimum an overview of mentally confused residents such as those having dementias as well as communicating with persons with dementia. II/III

[(19)] (21) The administrator/manager shall maintain on the premises an individual personnel record on each facility employee [of the facility], which shall include the following:

- (A) [t/The employee's name and address;
- (B) Social Security number;
- (C) [d/Date of birth;
- (D) [d/Date of employment;

(E) Documentation of experience and education including for positions requiring licensure or certification, documentation [of specialized training on medication and/or insulin administration, or both] evidencing competency for the position held, which includes copies of current licenses, transcripts when applicable, or for those individuals requiring certification, such as level I medication aides (LIMA), certified nurse aides, certified medication technicians (CMT) and insulin administration aides; printing the Web Registry search results page available at www.dhss.mo.gov/cnaregistry shall meet the requirements of the employer's check regarding valid certification;

(F) [r/References, if available;

(G) [t/The results of background checks required by section 660.317, RSMo; and a copy of any good cause waiver granted by the department, if applicable;

(H) [p/Position in the facility;

(I) [w/Written statement signed by a licensed physician or physician's designee indicating the person can work in a long-term care facility and indicating any limitations;

(J) Documentation of the employee's tuberculin screening status;

(K) [record that] Documentation of what the employee was instructed on [residents' rights, facility's policies, job duties and any other] during orientation training; and

(L) [r/Reason for termination]. Personnel records shall be maintained for at least one (1) year following termination of employment.] if the employee was terminated due to abuse or neglect of a resident, residents' rights issues or resident injury. III

(22) Personnel records shall be maintained for at least two (2) years following termination of employment. III

[(20)] (23) There shall be written documentation maintained in the facility showing actual hours worked by each employee. III

[(21)] (24) No one individual shall be on duty with responsibility for oversight of residents longer than eighteen (18) hours per day except

in a residential care facility [I] licensed for twelve (12) or fewer residents. I/II

[(22)] (25) Employees who are counted in meeting the minimum staffing ratio and employees who provide direct care to the residents shall be at least sixteen (16) years of age. III

[(23)] (26) One (1) employee at least eighteen (18) years of age shall be on duty at all times. I/II

[(24)] (27) Staffing for Residential Care Facility [I].

(A) The facility shall have an adequate number and type of personnel on duty at all times for the proper care of residents and upkeep of the facility. At a minimum, one (1) employee shall be on duty for every forty (40) residents [or fraction of forty (40)] to provide protective oversight to residents and for fire safety. I/II

Staff	Residents
1	1-40
2	41-80
3	81-120
4	121-160

(B) The required staff person shall be in the facility awake, dressed and prepared to assist residents in case of emergency, except that in a facility licensed for twelve (12) or fewer residents, this person may be asleep during the night hours. In a facility licensed for twenty (20) or fewer residents, the required staff person may be asleep if there is a sprinkler system or if there is a complete automatic fire detection system. I/II

(C) In a facility of more than one hundred (100) residents, the [administration] administrator/manager shall not be counted when determining the personnel required. II

(D) If the facility is opened in conjunction with and is immediately adjacent to and contiguous to another licensed long-term care facility and if—

1. The resident bedrooms of the residential care facility [I] are on the same floor or on the ground floor immediately below that of the other licensed facility;

2. There is an approved call system in each resident's bedroom and bathroom or a patient-controlled system connected to a nursing station of the other licensed facility;

3. There is a complete fire alarm system in the residential care facility [I] connected to the complete fire alarm system in the other licensed facility;

4. The staffing of the other licensed facility is greater than their minimum requirements; and

5. Periodic visits to the residential care facility [I] are made by a staff person to determine the welfare of the residents in the residential care facility; then, for a facility serving twenty (20) or fewer residents, there need not be an attendant on duty during the day and evening shifts and the attendant may be asleep during the night shift; or if the facility is on the same floor as the other licensed facility, there need not be an attendant at night. If there are more than twenty (20) residents, there shall be at least one (1) staff person awake and dressed at all times for every forty (40) residents or fraction of forty (40). I/II

(E) Those facilities which have only an asleep attendant during the night-time period and those facilities which have only the minimum staff required by subsection [(24)](27)(D) during the night-time period shall not accept residents who are blind, use assistive devices, such as walkers or wheelchairs, or who need care greater than can be provided with the staffing pattern in those facilities. Those residents who were living in a residential care facility [I] prior to July 11, 1980, may remain in that facility with an asleep attendant even though they may be blind, deaf or use assistive devices provided they can demonstrate the ability to reach safety unassisted or with assistive devices. II

[(25) Staffing for Residential Care Facility. II

(A) The facility shall have an adequate number and type of personnel for the proper care of residents and upkeep of the

facility. At a minimum, the staffing pattern for fire safety and care of residents shall be one (1) staff person for every fifteen (15) residents or major fraction of fifteen (15) during the day shift, one (1) person for every twenty (20) residents or major fraction of twenty (20) during the evening shift and one (1) person for every twenty-five (25) residents or major fraction of twenty-five (25) during the night shift. I/II

Time	Personnel	Residents
7 a.m. to 3 p.m. (Day)*	1	3-15
3 p.m. to 9 p.m. (Evening)*	1	3-20
9 p.m. to 7 a.m. (Night)*	1	3-25

*If the shift hours vary from those indicated, the hours of the shifts shall show on the work schedules of the facility [and shall not be less than six (6) hours]. III

(B) The required staff shall be in the facility awake, dressed and prepared to assist residents in case of emergency. I/II

(C) In a facility of more than one hundred (100) residents, the administrator shall not be counted when determining the personnel required. II

(D) If a residential care facility II is operated in conjunction with and is immediately adjacent to and contiguous to another licensed long-term care facility and if the resident bedrooms of the residential care facility II are on the same floor as at least a portion of a licensed intermediate care or skilled nursing facility; there is an approved call system in each resident's bedroom and bathroom or a patient-controlled call system; and there is a complete fire alarm system in the facility tied into the complete fire alarm system in the other licensed facility, then the following minimum staffing for oversight and care of residents, for upkeep of the facility and for fire safety shall be one (1) staff person for every eighteen (18) residents or major fraction of residents during the day shift, one (1) person for every twenty-five (25) residents or major fraction of residents during the evening shift and one (1) person for every thirty (30) residents or major fraction of residents during the night shift. I/II

Time	Personnel	Residents
7 a.m. to 3 p.m. (Day)*	1	3-18
3 p.m. to 9 p.m. (Evening)*	1	3-25
9 p.m. to 7 a.m. (Night)*	1	3-30

*If the shift hours vary from those indicated, the hours of the shifts shall show on the work schedules of the facility and shall not be less than six (6) hours. III

(E) There shall be a licensed nurse employed by the facility to work at least eight (8) hours per week at the facility for every thirty (30) residents or additional major fraction of thirty (30). The nurse's duties shall include, but shall not be limited to, review of residents' charts, medications and special diets or other orders, review of each resident's adjustment to the facility and observation of each individual resident's general physical and mental condition. The nurse shall inform the administrator/manager of any problems noted and these shall be brought to the attention of the resident's physician. II/III]

[(26)] (28) All residents shall be physically and mentally capable of negotiating a normal path to safety unassisted or with the use of assistive devices **within five (5) minutes of being alerted of the need to evacuate.** I/II

[(27)] (29) Residents suffering from short periods of incapacity due to illness, injury or recuperation from surgery may be allowed to remain or be readmitted from a hospital if the period of incapacity does not exceed forty-five (45) days and written approval of a physician is obtained for the resident to remain in or be readmitted to the facility. II/III

[(28)] (30) The facility shall not admit or continue to care for residents whose needs cannot be met. If necessary services cannot be obtained in or by the facility, the resident shall be promptly referred to appropriate outside resources or **[transferred to a] discharged from the facility [providing the appropriate level of care].** I/II

[(29)] (31) In the event a resident is transferred from the facility, **staff shall forward** a report of the resident's current medical status, *[shall accompany him/her.]* **physician's orders/prescriptions, and if applicable, a copy of the resident's advanced directives/living will to the facility to which the resident is being transferred. If the resident is transferring to a private residence, facility staff shall provide the reports to the resident or his or her designee or legally authorized representative.** II/III

[(30)] (32) Residents admitted to a facility on referral by the Department of Mental Health shall have an individual treatment plan or individual habilitation plan on file prepared by the Department of Mental Health updated annually. **II/II**

[(31)] **Residents under sixteen (16) years of age shall not be admitted.** III]

[(32)] (33) Placement of residents in the building shall be determined by their abilities. Those residents who require the use of a walker or who are blind shall be housed on a floor which has direct exits at grade, a ramp or no more than two (2) steps to grade with a handrail **unless an area of refuge as defined in 19 CSR 30-86.022 is provided.** Those residents who use a wheelchair shall be able to demonstrate the ability to transfer to and from the wheelchair unassisted. They shall be housed near an exit and there shall be a direct exit at grade, or a ramp or **an area of refuge as defined in 19 CSR 30-86.022.** II

(34) Requirements for facilities which admit or retain residents with mental illness or mental retardation diagnosis and residents with assaultive or disruptive behaviors:

(A) Each resident who exhibits mental and psychosocial adjustment difficulty(ies) shall receive appropriate treatment and services to address the resident's needs and behaviors; I/II

(B) If specialized rehabilitative services for mental illness or mental retardation are required to enable a resident to reach and maintain the highest practicable level of physical, mental and psychosocial functioning, the facility must ensure the required services are provided; and II

(C) The facility shall maintain in the resident's record the most recent progress notes and personal plan developed and provided by the Department of Mental Health or designated administrative agent for each resident whose care is funded by the Department of Mental Health or designated administrative agent. **III**

(35) The use of interventions to manage disruptive or assaultive resident behaviors shall be employed with sufficient safeguards to ensure the safety, welfare and rights of the resident and shall be in accordance with the therapeutic goals for the resident. I/II

(36) **Residents under sixteen (16) years of age shall not be admitted.** III

[(33)] (37) Residents admitted or readmitted to the facility shall have an admission physical examination by a licensed physician. Documentation should be obtained prior to admission but shall be on

file not later than ten (10) days after admission and shall contain information regarding the resident's current medical status and any special orders or procedures which should be followed. If the resident is admitted directly from a hospital or another long-term care facility and is accompanied on admission by a report which reflects his/her current medical status, an admission physical will not be required. II/III

[(34) If at any time a resident or prospective resident is diagnosed with a communicable disease, the Division of Aging shall be notified within seven (7) days and if the facility can meet the resident's needs the resident may be admitted or does not need to be transferred. Appropriate infection control procedures shall be followed if the resident remains in or is accepted by the facility. I/II]

(38) The facility shall follow appropriate infection control procedures. The administrator or his or her designee shall make a report to the local health authority or the department of the presence or suspected presence of any diseases or findings listed in 19 CSR 20-20.020, sections (1)–(3) according to the specified time frames as follows:

(A) Category I diseases or findings shall be reported to the local health authority or to the department within twenty-four (24) hours of first knowledge or suspicion by telephone, facsimile, or other rapid communication; I/II

(B) Category II diseases or findings shall be reported to the local health authority or the department within three (3) days of first knowledge or suspicion; I/II

(C) Category III The occurrence of an outbreak or epidemic of any illness, disease or condition which may be of public health concern, including any illness in a food handler that is potentially transmissible through food. This also includes public health threats such as clusters of unusual diseases or manifestations of illness and clusters of unexplained deaths. Such incidents shall be reported to the local authority or to the department by telephone, facsimile, or other rapid communication within twenty-four (24) hours of first knowledge or suspicion. I/II

[(35)] (39) Protective oversight shall be provided twenty-four (24) hours a day. For residents departing the premises on voluntary leave, the facility shall have, at a minimum, a procedure to inquire of the resident or resident's guardian of the resident's departure, of the resident's estimated length of absence from the facility, and of the resident's whereabouts while on voluntary leave. I/II

[(36)] (40) Residents shall receive proper care to meet their needs. Physician orders shall be followed. I/II

[(37)] (41) In case of behaviors which may potentially pose a threat of harm, serious illness, [accident] significant change in condition, injury or death, staff shall take appropriate action and shall [be taken and the person designated in the resident's record as the responsible party and, if applicable, the guardian shall be immediately notified.] promptly attempt to contact the individual listed in the resident's record as the legally authorized representative, designee or placement authority. The facility shall contact the attending physician or designee and notify the local coroner or medical examiner immediately upon the death of any resident of the facility prior to transferring the deceased resident to a funeral home. II/III

[(38)] (42) [Every resident shall be clean, dry and free of offensive body and mouth odor.] The facility shall encourage and assist each resident based on his or her individual preferences and needs, to be clean and free of body and mouth odor. I/III II

[(39)] (43) Except in the case of emergency, the resident shall not be inhibited by chemical and/or physical restraints that would limit self-

care or ability to negotiate a path to safety unassisted or with assistive devices. I/II

[(40) A supply of clean linen shall be available in the facility and provided to residents to meet their daily needs. II/III]

(41) Beds shall be made daily and linen changed at least weekly or more often if needed to maintain a clean, dry bed. II/III]

(42) The resident's unit shall be thoroughly cleaned and disinfected following a resident's death, discharge or transfer. II/III]

(43) Commodes and urinals, if used, shall be kept at the bedside of the residents. They shall not be left open and the container shall be emptied promptly and thoroughly cleaned after each use. In a residential care facility I, portable commodes and urinals may be used only during short periods of recuperation from illness or for night-time use. III]

(44) Cuspidors shall be emptied and cleaned daily or disposable cartons shall be provided daily. III]

(44) If the resident brings unsealed medications to the facility, the medications shall not be used unless a pharmacist, physician or nurse examines, identifies and determines the contents to be suitable for use. The individual performing the identification shall document his or her review. II/III

[(45) Self-control of prescription medication by a resident may be allowed only if approved in writing by the resident's physician and allowed by facility policy. If a resident is not taking any prescription medication, the resident may be permitted to control the storage and use of nonprescription medication unless there is a physician's written order or facility policy to the contrary. If not permitted, all medications for that resident, including over-the-counter medications, shall be controlled by the administrator unless the physician specifies otherwise. II/III]

[(46)] (45) Self-control of prescription medication by a resident may be allowed only if approved in writing by the resident's physician and allowed by facility policy. A resident may be permitted to control the storage and use of nonprescription medication unless there is a physician's written order or facility policy to the contrary. Written approval for self-control of prescription medication shall be rewritten as needed but at least annually and after any period of hospitalization. II/III]

[(47)] (46) All medication shall be [safety] safely stored at proper temperature and shall be kept in a secured location behind at least one (1) locked door or cabinet. Medication shall be accessible only to persons authorized to administer medications. II/III]

(A) If access is controlled by the resident, a secured location shall mean in a locked container, a locked drawer in a bedside table or dresser or in a resident's private room if locked in [his/her] his or her absence, although this does not preclude access by a responsible employee of the facility. II/III]

(B) Schedule II controlled substances shall be stored in locked compartments separate from non-controlled medications, except that single doses of Schedule II controlled substances may be controlled by a resident in compliance with the requirements for self-control of medication of this rule. II/III]

(C) Medication that is not in current use and is not destroyed shall be stored separately from medication that is in current use. II/III]

[(48)] (47) All prescription medications shall be supplied as individual prescriptions except where an emergency medication supply is allowed. All medications, including over-the-counter medications

shall be packaged and labeled in accordance with applicable professional pharmacy standards[,] and state and federal drug laws [and regulations and the United States Pharmacopeia (USP)]. Labeling shall include accessory and cautionary instructions as well as the expiration date, when applicable, and the name of the medication as specified in the physician's order. Medication labels shall not be altered by facility staff and medications shall not be repackaged by facility staff except as allowed by section (48) of this rule. Over-the-counter medications for individual residents shall be labeled with at least the resident's name. II/III

(48) Controlled substances and other prescription and non-prescription medications for administration when a resident temporarily leaves a facility shall be provided as follows:

(A) Separate containers of medications for the leave period may be prepared by the pharmacy. The facility shall have a policy and procedure for families to provide adequate advance notice so that medications can be obtained from the pharmacy; II/III

(B) Prescription medication cards or other multiple-dose prescription containers currently in use in the facility may be provided by any authorized facility medication staff member if the containers are labeled by the pharmacy with complete pharmacy prescription labeling for use. Original manufacturer containers of non-prescription medications, along with instructions for administration, may be provided by any authorized facility medication staff member; II/III

(C) When medications are supplied by the pharmacy in customized patient medication packages that allow separation of individual dose containers, the required number of containers may be provided by any authorized facility medication staff member. The individual dose containers shall be placed in an outer container that is labeled with the name and address of the facility and the date; II/III

(D) When multiple doses of a medication are required and it is not reasonably possible to obtain prescription medication labeled by the pharmacy, and it is not appropriate to send a container of medication currently in use in the facility, up to a twenty-four (24)-hour supply of each prescription or non-prescription medication may be provided by a licensed nurse in United States Pharmacopeia (USP) approved containers labeled with the facility name and address, resident's name, medication name and strength, quantity, instructions for use, date, initials of individual providing, and other appropriate information; II/III

(E) When no more than a single dose of a medication is required, any authorized facility medication staff member may prepare the dose as for in-facility administration in a USP approved container labeled with the facility name and address, resident's name, medication name and strength, quantity, instructions for use, date, initials of person providing, and other appropriate information;

(F) The facility may have a policy that limits the quantity of medication sent with a resident without prior approval of the prescriber; II/III

(G) Returned containers shall be identified as having been sent with the resident, and shall not later be returned to the pharmacy for reuse; and II/III

(H) The facility shall maintain accurate records of medications provided to and returned by the resident. II/III

(49) Upon discharge or transfer of a resident, the facility shall release prescription medications, including controlled substances, held by the facility for the resident when the physician writes an order for each medication to be released. Medications shall be labeled by the pharmacy with current instructions for use. Prescription medication cards or other containers may be released if the containers are labeled by the pharmacy with complete pharmacy prescription labeling. II/III

[[49] Injections shall be administered only by a physician or licensed nurse, except that residents who require insulin, upon written order of their physician, may administer their

own insulin or the insulin may be administered by a person trained to do so by a licensed nurse or physician and the resident's condition shall be monitored by his/her physician. After December 31, 1990, unless insulin is self-administered or it is administered only by a physician or licensed nurse, it shall be administered by a certified medication technician or a level I medication aide who has successfully completed the state-approved course for insulin administration, taught by an approved instructor and who was recommended for training by an administrator or nurse with whom s/he works. Anyone trained prior to December 31, 1990, who completed the state-approved insulin administration course taught by an approved instructor shall be considered qualified to administer insulin in a residential care facility I or II. Anyone trained prior to December 31, 1990, to administer insulin by a licensed nurse or physician not using the state-approved course may qualify by challenging the final examination of the insulin administration course. I/II]

(50) Injections shall be administered only by a physician or licensed nurse, except that insulin injections may be administered by a CMT or LIMA who has successfully completed the state-approved course for insulin administration, taught by a department-approved instructor. A resident who requires insulin, may administer his or her own insulin if approved in writing by the resident's physician and trained to do so by a licensed nurse or physician. The facility is responsible to monitor the resident's condition and continued ability for self-administration. I/II

[[50]] (51) The administrator/manager shall develop and implement a safe and effective system of medication control and use, which assures that all residents' medications are administered [or distributed] by personnel at least eighteen (18) years of age, in accordance with physicians' instructions using acceptable nursing techniques. [Until January 1, 1991, those facilities administering medications shall utilize personnel trained in medication administration (a licensed nurse, certified medication technician or level I medication aide) and] The facility shall employ a licensed nurse eight (8) hours per week for every thirty (30) residents to monitor each resident's condition and medication. [Distribution] Administration of medication shall mean delivering to a resident [his/her] his or her prescription medication either in the original pharmacy container, or for internal medication, removing an individual dose from the pharmacy container and placing it in a small [cup] container or liquid medium for the resident to remove from the container and self-administer. External prescription medication may be applied by facility personnel if the resident is unable to do so and the resident's physician so authorizes. [After December 31, 1990, a] All [persons] individuals who administer [or distribute] medication shall be trained in medication administration and, if not a physician or a licensed nurse, shall be a certified medication technician or level I medication aide. I/II

[[51]] (52) Medication Orders.

(A) Physician's instructions, as evidenced by the prescription label or by signed order of a physician, shall be accurately followed. If the physician changes the order which is designated on a prescription label, there shall be on file in the resident's record a signed physician's order to that effect with the amended instructions for use or until the prescription label is changed by the pharmacy to reflect the new order. II/III

(B) Physician's written and signed orders are not required, but if it is the facility's or physician's policy to use the orders, they shall include: name of the medication, dosage, [and] frequency and route of administration and the orders shall be renewed at least every three (3) months. Computer generated signatures may be used if safeguards are in place to prevent their misuse. Computer identification codes shall be accessible to and used only by the individuals whose signatures they represent. Orders that include optional doses or include *pro re nata* (PRN) administration frequencies

shall specify a maximum frequency and the reason for administration. II/III

(C) *[Verbal and t]Telephone and other verbal orders shall be [taken] received only [to] by a licensed nurse, medication technician, level I medication aide or pharmacist and shall be immediately reduced to writing and signed by that individual. If a telephone or other verbal order is given to a medication technician or level I medication aide, an initial dosage [of a new prescription] shall not be [initiated] administered until the order has been reviewed by telephone, facsimile or in person by a licensed nurse or pharmacist. II*

(D) The review shall be documented by the licensed nurse's or pharmacist's signature within seven (7) days. III

(E) The physician shall sign all *[verbal and]* telephone and other verbal orders within seven (7) days. III

(F) *[The administration or distribution of medication shall be recorded on a medication sheet or directly in the resident's record and, if recorded on a medication sheet, shall be made part of the resident's record. The administration or distribution shall be recorded by the same person who prepares the medication and who distributes or administers it.] Medication staff shall record administration of medication on a medication sheet or directly in the resident's record. If administration of medication is recorded on a medication sheet, the medication sheet shall be made part of the resident's medical record. The same individual who prepares and administers the medication shall record the administration. II/III*

[(52) No stock supply of prescription medication may be kept in the facility except in a residential care facility II, except an emergency drug supply as recommended by a pharmacist or physician may be kept if approved by the Division of Aging. Storage and use of medications in the emergency drug supply shall assure accountability. II/III]

[(53) Stock supplies of nonprescription medication may be kept for pro re nata (PRN) use in both residential care facility Is or IIs as long as the particular medications are approved in writing by a consulting physician, a registered nurse or a pharmacist. II/III]

[(54) All controlled substances shall be handled according to state laws and regulations as given in and required by 19 CSR 30-1 and Chapter 195, RSMo. II/III]

(53) Influenza and pneumococcal polysaccharide immunizations may be administered per physician-approved facility policy after assessment for contraindications.

(A) The facility shall develop a policy that provides recommendations and assessment parameters for the administration of such immunizations. The policy shall be approved by the facility medical director for facilities having a medical director, or by each resident's attending physician for facilities that do not have a medical director, and shall include the requirements to:

1. Provide education regarding the potential benefits and side effects of the immunization to each resident or the resident's designee or legally authorized representative; II/III

2. Offer the immunization to the resident or the resident's designee or legally authorized representative when it is medically indicated or the resident has been immunized as recommended by the policy; II/III

3. Provide the opportunity to refuse the immunization; and II/III

4. Perform an assessment for contraindications. II/III

(B) The assessment for contraindications and documentation of the education and opportunity to refuse the immunization shall be dated and signed by the nurse performing the assessment and placed in the medical record.

(C) The facility shall with access screening and immunization through outside sources with the approval of each resident's physician, such as county or city health departments. II/III

(54) Stock supplies of nonprescription medication may be kept when specific medications are approved in writing by a consulting physician, a registered nurse or a pharmacist. II/III

(55) Records shall be maintained upon receipt and disposition of all controlled substances and shall be maintained separately from other records, for two (2) years.

(A) Inventories of controlled substances shall be reconciled as follows: II/III

1. Controlled Substance Schedule II medications shall be reconciled each shift; and II

2. Controlled Substance Schedule III-V medications shall be reconciled at least weekly and as needed to ensure accountability. II/III

(B) Inventories of controlled substances shall be reconciled by the following:

1. Two (2) medication personnel, one of whom is a licensed nurse; or

2. Two (2) medication personnel, one of whom is the administrator/manager when no nurse is available on staff; or

3. Two (2) medication personnel either medication technicians or level I medication aides when neither a licensed nurse nor the administrator/manager is available. II/III

(C) Receipt records shall include the date, source of supply, resident name and prescription number when applicable, medication name and strength, quantity and signature of the supplier and receiver. Administration records shall include the date, time, resident name, medication name, dose administered and the initials of the individual administering. The signature and initials of each medication staff documenting on the medication administration record must be signed in the signature area of the medication record. II/III

(D) When self-control of medication is approved a record shall be made of all controlled substances transferred to and administered from the resident's room. Inventory reconciliation shall include controlled substances transferred to the resident's room. I/II

(56) Documentation of the wasting of controlled substances at the time of administration shall include the reason for the waste and the signature of another medication staff member or the administrator who witnesses the waste. If no medication staff member or the administrator is available at the time of administration, the controlled substance shall be properly labeled, clearly identified as unusable, stored in a locked area, and destroyed as soon as a medication staff member or the administrator is available to witness the waste. When no medication staff member or the administrator is available and the controlled substance is contaminated by patient body fluids, the controlled substance shall be destroyed immediately and the circumstances documented. II/III

(57) At least every three (3) months in a residential care facility, a pharmacist or registered nurse shall review the controlled substance record keeping including reconciling the inventories of controlled substances. This shall be done at the time of the drug regimen review of each resident. All discrepancies in controlled substance records shall be reported to the administrator or manager for review and investigation. The theft or loss of controlled substances shall be reported as follows: II/III

(A) The facility shall notify the department's Section for Long Term Care (SLTC) and other appropriate authorities of any theft or significant loss of any controlled substance medication written as an individual prescription for a specific resident upon the discovery of the theft or loss. The facility shall consider at least the following factors in determining if a loss is significant:

1. The actual quantity lost in relation to the total quantity;

2. The specific controlled substance lost;

3. Whether the loss can be associated with access by specific individuals;

4. Whether there is a pattern of losses, and if the losses appear to be random or not;

5. Whether the controlled substance is a likely candidate for diversion; and

6. Local trends and other indicators of diversion potential; II/III

(B) If an insignificant amount of such controlled substance is lost during lawful activities, which includes but are not limited to receiving, record keeping, access auditing, administration, destruction and returning to the pharmacy, a description of the occurrence shall be documented in writing and maintained with the facility's controlled substance records. The documentation shall include the reason for determining that the loss was insignificant; and II/III

(C) When the facility is registered with the Bureau of Narcotics and Dangerous Drugs (BNDD), the facility shall report to or document for the BNDD any loss of any stock supply controlled substance in compliance with 19 CSR 30-1.034. II/III

[(55)] (58) A pharmacist or registered nurse shall review the [drug regime] medication regimen of each resident. This shall be done at least [every other month in a residential care facility II and] every three (3) months in a residential care facility III. The review shall be performed in the facility and shall include, but shall not be limited to, indication for use, dose, possible [drug] medication interactions and medication/food interactions, contraindications, adverse reactions and a review of the medication system utilized by the facility. Irregularities and concerns shall be reported in writing to the resident's physician and to the administrator/manager. If after thirty (30) days, there is no action taken by a resident's physician and significant concerns continue regarding a resident's or residents' medication order(s), the administrator/manager shall contact or recontact the physician to determine if [s/he] he or she received the information and if there are any new instructions. II/III

[(56) Medication controlled by the facility shall be disposed of either by destroying, returning to the pharmacy or sending with residents on discharge. The following shall be destroyed within the facility within ninety (90) days: discontinued medication not returnable to the pharmacy, all discontinued controlled substances, outdated or deteriorated medication, medication of expired residents not returnable to the pharmacy, and medications not sent with the resident on discharge. II/III]

[(57) Disposition of medication controlled by the facility shall be recorded listing the resident's name, the date and the name, strength and quantity of the drug and the signature(s) of the person(s) involved. Medication destruction shall involve two (2) persons one (1) of whom shall be a pharmacist, a nurse or a state inspector. III]

(59) All medication errors and adverse reactions shall be promptly documented and reported to the administrator/manager and the resident's physician. If the pharmacy made a dispensing error, it shall also be reported to the issuing pharmacy. II/III

(60) Medications that are not in current use shall be disposed of as follows:

(A) Single doses of contaminated, refused, or otherwise unusable non-controlled substance medications may be destroyed by any authorized medication staff member at the time of administration. Single doses of unusable controlled substance medications shall be destroyed according to section (56) of this rule;

(B) Discontinued medications may be retained up to one hundred twenty (120) days prior to other disposition if there is reason to believe, based on clinical assessment of the resident, that the medication might be reordered;

(C) Medications may be released to the resident or family upon discharge according to section (48) of this rule;

(D) After a resident has expired, medications, except for controlled substances, may be released to the resident's legal repre-

sentative upon written request of the legal representative that includes the name of the medication and the reason for the request;

(E) Medications may be returned to the pharmacy that dispensed the medications pursuant to 4 CSR 220-3.040 or returned pursuant to the Prescription Drug Repository Program, 19 CSR 20-50.020;

(F) All other medications, including all controlled substances and all expired or otherwise unusable medications, shall be destroyed within thirty (30) days as follows: II/III

1. Medications shall be destroyed within the facility by a pharmacist and a licensed nurse or by two (2) licensed nurses or when two (2) licensed nurses are not available on staff by two (2) individuals who have authority to administer medications, one (1) of whom shall be a licensed nurse or a pharmacist; and II/III

2. A record of medication destroyed shall be maintained and shall include the resident's name, date, medication name and strength, quantity, prescription number, and signatures of the individuals destroying the medications; and II/III

(G) A record of medication released or returned to the pharmacy shall be maintained and shall include the resident's name, date, medication name and strength, quantity, prescription number, and signatures of the individuals releasing and receiving the medications. III

[(58)] (61) Residents shall be encouraged to be active and to participate in activities. In a residential care facility licensed for more than twelve (12) residents, a method for informing the residents in advance of what activities are available, where they will be held and at what times they will be held shall be developed, maintained and used. II/III

[(59)] (62) The facility shall maintain [A] a record [shall be maintained] in the facility for each resident, which shall include the following:

(A) Admission information including the resident's name; admission date; confidentiality number; previous address; birth date; sex; marital status; Social Security number; Medicare and Medicaid numbers (if applicable); name, address and telephone number of the resident's physician and alternate; diagnosis, name, address and telephone number of the resident's [next of kin, legal guardian,] legally authorized representative or designee [or person] to be notified in case of emergency; and preferred dentist, pharmacist and funeral director; III [and]

(B) [A resident's record, including a] A review monthly or more frequently, if indicated, of the resident's general condition and needs; a monthly review of medication consumption of any resident controlling [his/her] his or her own medication, noting if prescription medications are being used in appropriate quantities; a daily record of [distribution or] administration of medication; [any physician's orders,] a logging of the [drug regime] medication regimen review process; a monthly weight; a record of each referral of a resident for services from an outside service; and a record of any [patient] resident incidents including behaviors that pose or have posed a threat of harm to self or others and accidents that potentially could result in injury or did result in injuries involving the resident./.; and III

(C) Any Physician's Orders. All orders shall be signed and dated except as allowed by section (51) of this rule. III

[(60)] (63) A record of the daily resident census [as well as records regarding discharge, transfer or death of residents] shall be [kept] retained in the facility. III

[(61)] (64) Resident records shall be maintained by the operator for at least five (5) years after [the] a resident leaves the facility or after the resident reaches the age of twenty-one (21), whichever is longer and must include reason for discharge or transfer from the facility and cause of death, if applicable. III

AUTHORITY: sections **198.005 and 198.006, RSMo [Supp. 2003] (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) and 198.076, RSMo 2000.** This rule originally filed as 13 CSR 15-15.042. Original rule filed July 13, 1983, effective Oct. 13, 1983. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Aug. 23, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will cost facilities formerly licensed as residential care facilities I, an annual cost in the aggregate of four hundred forty-one thousand sixty-two dollars (\$441,062) plus a total one (1)-time cost in the aggregate of seven thousand nine hundred seventy-nine dollars (\$7,979). In addition, this proposed amendment will cost facilities who have received residential care facility I certificate of need approval a total annual cost in the aggregate of seventeen thousand seventy-seven dollars (\$17,077) plus a total one (1)-time cost in the aggregate of six hundred eighteen dollars (\$618). There will be an unknown number of newly constructed residential care facilities with an indeterminate cost.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director, Division of Regulation and Licensure, Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

**FISCAL NOTE
PRIVATE COST**

I. RULE NUMBER

Rule Number and Name:	19 CSR 30-86.042 Administrative, Personnel and Resident Care Requirements for New and Existing Residential Care Facilities
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the proposed amendment, by the affected entities:
266	Facilities formerly Licensed as Residential Care Facility I	Total Yearly Cost in the Aggregate \$441,062** One-Time Cost in the Aggregate \$7,979
10 facilities who have received Residential Care Facility I CON approval plus an unknown number of new Residential Care Facilities that will be constructed	Newly Constructed Residential Care Facilities	Total Yearly Cost in the Aggregate \$17,077 for the 10 known plus an indeterminate amount for the unknown One-Time Cost in the Aggregate \$618 for the 10 known plus an indeterminate amount for the unknown

III. and IV. WORKSHEET AND ASSUMPTIONS

Staff Training – This proposed amendment requires residential care facilities that provide care to residents with Alzheimer’s disease or related dementia to provide 3 hours of dementia specific training to staff providing the care. According to the Alzheimer’s Association, the cost for such a class is approximately \$225. Because of staff turnover, DHSS estimates each residential care facility will need three training sessions per year. DHSS estimates the total yearly cost for residential care facilities in the aggregate to be \$179,550 (\$225 cost per training x 3 training sessions per year) x (266 facilities).

Examination of Medications – This proposed amendment requires an examination of unsealed medications brought to the facility by a resident to be examined, identified and determined to be suitable prior to use. This proposed amendment requires this examination, identification and determination to be made by a pharmacist, physician or nurse. DHSS estimates each facility will require the services of a nurse, pharmacist or physician one hour

per week. Based on the Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised October 1, 2005) the average annual market salary for a licenses practical nurse I is \$24,984. DHSS has added an additional amount for fringe benefits which is based on current fringe benefit rates for state employees.* DHSS estimates the total yearly cost for residential care facilities in the aggregate to be \$236,021 ($\$24,982 \times .4207$ fringe rate) + ($\$24,982 / (2080 \text{ hours in a work year}) \times (1 \text{ hour}) \times (52 \text{ weeks per year}) \times (266 \text{ facilities})$).

Locked Compartment for Controlled Substances – This proposed amendment requires residential care facilities to store schedule II controlled substances in a locked compartment separate from other medications. Based on inspections conducted by DHSS, DHSS estimates fifty percent of existing residential care facilities currently meet this proposed requirement, therefore approximately 133 residential care facilities would incur a cost. According to MMF Industries, a lock-down security box costs \$59.99. DHSS estimates the total yearly cost for residential care facilities in the aggregate to be \$7,979 ($\$59.99 \text{ cost for locked compartment} \times 133 \text{ facilities}$).

Controlled Substance Reviews – This proposed amendment requires residential care facilities to contract with either a registered nurse or pharmacist to conduct controlled substance record reviews every three months. Based on Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised October 1, 2005) the average annual market salary for a registered nurse I is \$35,076. DHSS estimates it will take one hour to complete the reviews. DHSS estimates the total yearly cost for residential care facilities in the aggregate to be \$25,491 ($\$35,076 \times .4207$ fringe rate) + ($\$35,076 / (2080 \text{ hours in a work year}) \times (1 \text{ hour}) \times (4 \text{ times per year}) \times (266 \text{ facilities})$).

Information obtained from the Certificate of Need Program reveals 10 facilities who have CON approval for residential care facility I. In determining the cost in the aggregate for these 10 facilities, DHSS utilized it's estimate of the yearly cost of compliance for each existing facility which is \$1,658 ($\$441,062 \text{ total yearly cost in the aggregate for existing facilities} / 266 \text{ number of facilities choosing to comply with this proposed amendment}$) plus three percent adjustment for inflation. DHSS estimates the actual costs for the 10 facilities with current CON approval for residential care facility I to be \$17,077 ($\$1,658 \text{ cost to each facility} \times (10 \text{ number of facilities with current CON approval for Residential Care Facility}) \times (.03 \text{ inflation adjustment}) + (\$16,580)$).

In addition, these facilities will incur a one-time cost of \$618 ($\$59.99 \text{ cost for locked compartment} \times .03 \text{ inflation adjustment}) + \$59.99 \times (10 \text{ facilities})$).

*The state of Missouri fringe benefit rate for fiscal year 2007 is 42.07 percent which includes retirement contribution, medical insurance, basic life insurance, long-term disability and Missouri deferred compensation. This rate was used throughout the fiscal note. Facilities can use this formula revised with their own figures to determine the cost to their facility.

**** At an August 7,2006 public meeting, various members of the long term care industry verbally reported various estimated costs for specific requirements, but did not elaborate how they reached these conclusions.**

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities and Assisted
Living Facilities**

PROPOSED RULE

19 CSR 30-86.043 Administrative, Personnel and Resident Care Requirements for Facilities Licensed as a Residential Care Facility II on August 27, 2006 that Will Comply with Residential Care Facility II Standards

PURPOSE: This rule establishes requirements for administration, personnel and resident care requirements for facilities licensed pursuant to section 198.005, RSMo that continue to comply with residential care facilities (RCF) II standards in effect on August 27, 2006.

EDITOR'S NOTE: All rules relating to long-term care facilities licensed by the department are followed by a Roman Numeral notation which refers to the class (either Class I, II or III) of standard as designated in section 198.085.1, RSMo.

(1) This rule contains the administrative, personnel and resident care standards in effect on August 27, 2006 for residential care facility IIs (formerly published at 19 CSR 30-86.042 (effective 12/31/05)). These standards apply to facilities that were licensed as residential care facility IIs on August 27, 2006 and that choose to be inspected under these standards rather than the standards published at 19 CSR 30-86.047.

(2) A person shall be designated to be administrator who is currently licensed as a nursing home administrator under Chapter 344, RSMo. II

(3) By January 1, 1991, the administrator of a facility shall have successfully completed the state approved Level I Medication Aide course unless s/he is a physician, pharmacist, licensed nurse or a certified medication technician, or if the facility is operating in conjunction with a skilled nursing facility or intermediate care facility on the same premises, or if the facility employs on a full-time basis, a licensed nurse who is available seven (7) days per week. II/III

(4) The operator shall be responsible to assure compliance with all applicable laws and regulations. The administrator shall be fully authorized and empowered to make decisions regarding the operation of the facility and shall be held responsible for the actions of all employees. The administrator's responsibilities shall include oversight of residents to assure that they receive appropriate care. II/III

(5) The administrator shall devote sufficient time and attention to the management of the facility as is necessary for the health, safety and welfare of the residents. II

(6) The administrator cannot be listed or function in more than one (1) facility at the same time unless s/he serves no more than four (4) facilities which are within a thirty (30)-mile radius and licensed to serve in total no more than one hundred (100) residents. However, one (1) administrator may serve as the administrator of more than one (1) licensed facility if all facilities are on the same premises. II/III

(7) The administrator shall designate, in writing, a staff person in charge in his/her absence. If the administrator is absent for more than thirty (30) consecutive days, during which time s/he is not readily accessible for consultation by telephone with the person in charge or if the administrator is absent from the facility for more than sixty

(60) working days during the course of a calendar year the person designated to be in charge shall be a licensed nursing home administrator. II/III

(8) The facility shall not care for more residents than the number for which the facility is licensed. II/III

(9) The facility's current license shall be posted in a conspicuous place and notices provided to the facility by the Department of Health and Senior Services (the department) granting exception(s) to regulatory requirements shall be posted alongside of the facility's license. III

(10) All personnel responsible for resident care shall have access to the legal name of each resident, name and telephone number of physician and next of kin or responsible party in the event of emergency. II/III

(11) All persons who have any contact with the residents in the facility shall not knowingly act or omit any duty in a manner which would materially and adversely affect the health, safety, welfare or property of residents. No person who is listed on the Employee Disqualification List maintained by the department as required by section 198.070, RSMo shall work or volunteer in the facility in any capacity whether or not employed by the operator. I/II

(12) Effective August 28, 1997, each facility shall, not later than two (2) working days of the date an applicant for a position to have contact with residents is hired, request a criminal background check, as provided in sections 43.530, 43.540 and 610.120, RSMo. Each facility must maintain in its record documents verifying that the background checks were requested and the nature of the response received for each such request. The facility must ensure that any applicant who discloses prior to the check of his/her criminal records that he/she has been convicted of, plead guilty or *nolo contendere* to, or has been found guilty of any Class A or B felony violation of Chapter 565, 566, or 569, RSMo, or any violation of subsection 3 of section 198.070, RSMo, or of section 568.020, RSMo, will not be allowed to work in contact with patients or residents until and unless a check of the applicant's criminal record shows that no such conviction occurred. II/III

(13) The facility must develop and implement written policies and procedures which require that persons hired for any position which is to have contact with any patient or resident have been informed of their responsibility to disclose their prior criminal history to the facility as required by section 660.317.5, RSMo. The facility must also develop and implement policies and procedures which ensure that the facility does not knowingly hire, after August 28, 1997, any person who has or may have contact with a patient or resident, who has been convicted of, plead guilty or *nolo contendere* to, in this state or any other state, or has been found guilty of any Class A or B felony violation of Chapter 565, 566 or 569, RSMo, or any violation of subsection 3 of section 198.070, RSMo, or of section 568.020, RSMo. II/III

(14) All persons who have or may have contact with residents shall at all times when on duty or delivering services wear an identification badge. The badge shall give their name, title and, if applicable, the status of their license or certification as any kind of health care professional. This rule shall apply to all personnel who provide services to any resident directly or indirectly. III

(15) All personnel shall be able physically and emotionally to work in a long-term care facility. I/II

(16) Personnel who have been diagnosed with a communicable disease may begin work or return to duty only with written approval by

a physician or physician's designee which indicates any limitations. II

(17) The administrator shall be responsible for monitoring the health of the employees. II/III

(18) Prior to or on the first day that a new employee works in the facility s/he shall receive orientation of at least one (1) hour appropriate to his/her job function. This shall include, at a minimum, job responsibilities, how to handle emergency situations, the importance of infection control and handwashing, confidentiality of resident information, preservation of resident dignity, how to report abuse/neglect to the department (1-800-392-0210), information regarding the Employee Disqualification List and instruction regarding the rights of residents and protection of property. II/III

(19) The administrator shall maintain on the premises an individual personnel record on each employee of the facility which shall include: the employee's name and address; Social Security number; date of birth; date of employment; experience and education including documentation of specialized training on medication and/or insulin administration, or both; references, if available; the results of background checks required by section 660.317, RSMo; position in the facility; written statement signed by a licensed physician or physician's designee indicating the person can work in a long-term care facility and indicating any limitations; record that the employee was instructed on residents' rights, facility's policies, job duties and any other orientation and reason for termination. Personnel records shall be maintained for at least one (1) year following termination of employment. III

(20) There shall be written documentation maintained in the facility showing actual hours worked by each employee. III

(21) No one individual shall be on duty with responsibility for oversight of residents longer than eighteen (18) hours per day. I/II

(22) Employees who are counted in meeting the minimum staffing ratio and employees who provide direct care to the residents shall be at least sixteen (16) years of age. III

(23) One (1) employee at least eighteen (18) years of age shall be on duty at all times. I/II

(24) Staffing.

(A) The facility shall have an adequate number and type of personnel for the proper care of residents and upkeep of the facility. At a minimum, the staffing pattern for fire safety and care of residents shall be one (1) staff person for every fifteen (15) residents or major fraction of fifteen (15) during the day shift, one (1) person for every twenty (20) residents or major fraction of twenty (20) during the evening shift and one (1) person for every twenty-five (25) residents or major fraction of twenty-five (25) during the night shift. I/II

Time	Personnel	Residents
7 a.m. to 3 p.m. (Day)*	1	3-15
3 p.m. to 9 p.m. (Evening)*	1	3-20
9 p.m. to 7 a.m. (Night)*	1	3-25

*If the shift hours vary from those indicated, the hours of the shifts shall show on the work schedules of the facility and shall not be less than six (6) hours. III

(B) The required staff shall be in the facility awake, dressed and prepared to assist residents in case of emergency. I/II

(C) In a facility of more than one hundred (100) residents, the administrator shall not be counted when determining the personnel required. II

(D) If assisted living facility is operated in conjunction with and is immediately adjacent to and contiguous to another licensed long-term care facility and if the resident bedrooms of the facility are on the same floor as at least a portion of a licensed intermediate care or skilled nursing facility; there is an approved call system in each resident's bedroom and bathroom or a patient-controlled call system; and there is a complete fire alarm system in the facility tied into the complete fire alarm system in the other licensed facility, then the following minimum staffing for oversight and care of residents, for upkeep of the facility and for fire safety shall be one (1) staff person for every eighteen (18) residents or major fraction of residents during the day shift, one (1) person for every twenty-five (25) residents or major fraction of residents during the evening shift and one (1) person for every thirty (30) residents or major fraction of residents during the night shift. I/II

Time	Personnel	Residents
7 a.m. to 3 p.m. (Day)*	1	3-18
3 p.m. to 9 p.m. (Evening)*	1	3-25
9 p.m. to 7 a.m. (Night)*	1	3-30

*If the shift hours vary from those indicated, the hours of the shifts shall show on the work schedules of the facility and shall not be less than six (6) hours. III

(E) There shall be a licensed nurse employed by the facility to work at least eight (8) hours per week at the facility for every thirty (30) residents or additional major fraction of thirty (30). The nurse's duties shall include, but shall not be limited to, review of residents' charts, medications and special diets or other orders, review of each resident's adjustment to the facility and observation of each individual resident's general physical and mental condition. The nurse shall inform the administrator of any problems noted and these shall be brought to the attention of the resident's physician. II/III

(25) All residents shall be physically and mentally capable of negotiating a normal path to safety unassisted or with the use of assistive devices. I/II

(26) Residents suffering from short periods of incapacity due to illness, injury or recuperation from surgery may be allowed to remain or be readmitted from a hospital if the period of incapacity does not exceed forty-five (45) days and written approval of a physician is obtained for the resident to remain in or be readmitted to the facility. II/III

(27) The facility shall not admit or continue to care for residents whose needs cannot be met. If necessary services cannot be obtained in or by the facility, the resident shall be promptly referred to appropriate outside resources or transferred to a facility providing the appropriate level of care. I/II

(28) In the event a resident is transferred from the facility, a report of the resident's current medical status shall accompany him/her. III

(29) Residents admitted to a facility on referral by the Department of Mental Health shall have an individual treatment plan or individual habilitation plan on file prepared by the Department of Mental Health, updated annually. III

(30) Residents under sixteen (16) years of age shall not be admitted. III

(31) Placement of residents in the building shall be determined by their abilities. Those residents who require the use of a walker or who are blind shall be housed on a floor which has direct exits at grade, a ramp or no more than two (2) steps to grade with a handrail. Those residents who use a wheelchair shall be able to demonstrate the ability to transfer to and from the wheelchair unassisted. They shall be housed near an exit and there shall be a direct exit at grade or a ramp. II

(32) Residents admitted or readmitted to the facility shall have an admission physical examination by a licensed physician. Documentation should be obtained prior to admission but shall be on file not later than ten (10) days after admission and shall contain information regarding the resident's current medical status and any special orders or procedures which should be followed. If the resident is admitted directly from a hospital or another long-term care facility and is accompanied on admission by a report which reflects his/her current medical status, an admission physical will not be required. II/III

(33) If at any time a resident or prospective resident is diagnosed with a communicable disease, the department shall be notified within seven (7) days and if the facility can meet the resident's needs, the resident may be admitted or does not need to be transferred. Appropriate infection control procedures shall be followed if the resident remains in or is accepted by the facility. I/II

(34) Protective oversight shall be provided twenty-four (24) hours a day. For residents departing the premises on voluntary leave, the facility shall have, at a minimum, a procedure to inquire of the resident or resident's guardian of the resident's departure, of the resident's estimated length of absence from the facility, and of the resident's whereabouts while on voluntary leave. I/II

(35) Residents shall receive proper care to meet their needs. Physician orders shall be followed. I/II

(36) In case of serious illness, accident or death, appropriate action shall be taken and the person designated in the resident's record as the responsible party and, if applicable, the guardian shall be immediately notified. II/III

(37) Every resident shall be clean, dry and free of offensive body and mouth odor. I/II

(38) Except in the case of emergency, the resident shall not be inhibited by chemical and/or physical restraints that would limit self-care or ability to negotiate a path to safety unassisted or with assistive devices. I/II

(39) A supply of clean linen shall be available in the facility and provided to residents to meet their daily needs. II/III

(40) Beds shall be made daily and linen changed at least weekly or more often if needed to maintain a clean, dry bed. II/III

(41) The resident's unit shall be thoroughly cleaned and disinfected following a resident's death, discharge or transfer. II/III

(42) Commodes and urinals, if used, shall be kept at the bedside of the residents. They shall not be left open and the container shall be emptied promptly and thoroughly cleaned after each use. III

(43) Cuspidors shall be emptied and cleaned daily or disposable cations shall be provided daily. III

(44) Self-control of prescription medication by a resident may be allowed only if approved in writing by the resident's physician and allowed by facility policy. If a resident is not taking any prescription

medication, the resident may be permitted to control the storage and use of nonprescription medication unless there is a physician's written order or facility policy to the contrary. If not permitted, all medications for that resident, including over-the-counter medications, shall be controlled by the administrator unless the physician specifies otherwise. II/III

(45) Written approval for self-control of prescription medication shall be rewritten as needed but at least annually and after any period of hospitalization. III

(46) All medication shall be safely stored at proper temperature and shall be kept in a secured location behind at least one (1) locked door or cabinet. If access is controlled by the resident, a secured location shall mean in a locked container, a locked drawer in a bedside table or dresser or in a resident's private room if locked in his/her absence, although this does not preclude access by a responsible employee of the facility. II/III

(47) All prescription medications shall be supplied as individual prescriptions. All medications, including over-the-counter medications shall be packaged and labeled in accordance with applicable professional pharmacy standards, state and federal drug laws and regulations and the *United States Pharmacopeia (USP)*. Labeling shall include accessory and cautionary instructions as well as the expiration date, when applicable, and the name of the medication as specified in the physician's order. Over-the-counter medications for individual residents shall be labeled with at least the resident's name. II/III

(48) Injections shall be administered only by a physician or licensed nurse, except that residents who require insulin, upon written order of their physician, may administer their own insulin or the insulin may be administered by a person trained to do so by a licensed nurse or physician and the resident's condition shall be monitored by his/her physician. After December 31, 1990, unless insulin is self-administered or it is administered only by a physician or licensed nurse, it shall be administered by a certified medication technician or a level I medication aide who has successfully completed the state-approved course for insulin administration, taught by an approved instructor and who was recommended for training by an administrator or nurse with whom he or she works. Anyone trained prior to December 31, 1990, who completed the state-approved insulin administration course taught by an approved instructor shall be considered qualified to administer insulin in a facility. Anyone trained prior to December 31, 1990, to administer insulin by a licensed nurse or physician not using the state-approved course may qualify by challenging the final examination of the insulin administration course. I/II

(49) The administrator shall develop and implement a safe and effective system of medication control and use which assures that all residents' medications are administered or distributed by personnel at least eighteen (18) years of age, in accordance with physicians' instructions using acceptable nursing techniques. Until January 1, 1991, those facilities administering medications shall utilize personnel trained in medication administration (a licensed nurse, certified medication technician or level I medication aide) and shall employ a licensed nurse eight (8) hours per week for every thirty (30) residents to monitor each resident's condition. Distribution shall mean delivering to a resident his/her prescription medication either in the original pharmacy container, or for internal medication, removing an individual dose from the pharmacy container and placing it in a small container or liquid medium for the resident to remove from the container and self-administer. External prescription medication may be applied by facility personnel if the resident is unable to do so and the resident's physician so authorizes. After December 31, 1990, all persons who administer or distribute medication shall be trained in medication administration and, if not a physician or a licensed nurse,

shall be a certified medication technician or level I medication aide. I/II

(50) Medication Orders.

(A) Physician's instructions, as evidenced by the prescription label or by signed order of a physician, shall be accurately followed. If the physician changes the order which is designated on a prescription label, there shall be on file in the resident's record a signed physician's order to that effect with the amended instructions for use or until the prescription label is changed by the pharmacy to reflect the new order. II/III

(B) Physician's written and signed orders are not required, but if it is the facility's or physician's policy to use the orders, they shall include: name of medication, dosage and frequency of administration and the orders shall be renewed at least every three (3) months. II/III

(C) Verbal and telephone orders shall be taken only to a licensed nurse, medication technician, level I medication aide or pharmacist and shall be immediately reduced to writing and signed by that individual. If a telephone order is given to a medication technician or level I medication aide, an initial dosage of a new prescription shall not be initiated until the order has been reviewed by telephone or in person by a licensed nurse or pharmacist. II

(D) The review shall be documented by the nurse's or pharmacist's signature within seven (7) days. III

(E) The physician shall sign all verbal and telephone orders within seven (7) days. III

(F) The administration or distribution of medication shall be recorded on a medication sheet or directly in the resident's record and, if recorded on a medication sheet, shall be made part of the resident's record. The administration or distribution shall be recorded by the same person who prepares the medication and who distributes or administers it. II/III

(51) A stock supply of prescription medication may be kept in the facility. An emergency drug supply as recommended by a pharmacist or physician may be kept if approved by the department. Storage and use of medications in the emergency drug supply shall assure accountability. II/III

(52) Stock supplies of nonprescription medication may be kept for *pro re nata* (PRN) use in facilities as long as the particular medications are approved in writing by a consulting physician, a registered nurse or a pharmacist. II/III

(53) All controlled substances shall be handled according to state laws and regulations as given in and required by 19 CSR 30-1 and Chapter 195, RSMo. II/III

(54) A pharmacist or registered nurse shall review the drug regimen of each resident. This shall be done at least every other month in a facility. The review shall be performed in the facility and shall include, but shall not be limited to, possible drug and food interactions, contraindications, adverse reactions and a review of the medication system utilized by the facility. Irregularities and concerns shall be reported in writing to the resident's physician and to the administrator. If after thirty (30) days, there is no action taken by a resident's physician and significant concerns continue regarding a resident's or residents' medication order(s), the administrator shall contact or recontact the physician to determine if he or she received the information and if there are any new instructions. II/III

(55) Medications controlled by the facility shall be disposed of either by destroying, returning to the pharmacy or sending with residents on discharge. The following shall be destroyed within the facility within ninety (90) days: discontinued medication not returnable to the pharmacy, all discontinued controlled substances, outdated or deteriorated medication, medication of expired residents not return-

able to the pharmacy and medications not sent with the resident on discharge. II/III

(56) Disposition of medication controlled by the facility shall be recorded listing the resident's name, the date and the name, strength and quantity of the drug and the signature(s) of the person(s) involved. Medication destruction shall involve two (2) persons, one (1) of whom shall be a pharmacist, a nurse or a state inspector. III

(57) Residents shall be encouraged to be active and to participate in activities. In a facility licensed for more than twelve (12) residents, a method for informing the residents in advance of what activities are available, where they will be held and at what times they will be held shall be developed, maintained and used. II/III

(58) A record shall be maintained in the facility for each resident which shall include:

(A) Admission information including the resident's name; admission date; confidentiality number; previous address; birth date; sex; marital status; Social Security number; Medicare and Medicaid number; name, address and telephone number of physician and alternate; name, address and telephone number of resident's next of kin, legal guardian, designee or person to be notified in case of emergency; and preferred dentist, pharmacist and funeral director; and III

(B) A resident's record, including a review monthly or more frequently, if indicated, of the resident's general condition and needs; a monthly review of medication consumption of any resident controlling his/her own medication, noting if prescription medications are being used in appropriate quantities; a daily record of distribution or administration of medication; any physician's orders; a logging of the drug regimen review process; a monthly weight; a record of each referral of a resident for services from an outside service; and a record of any patient incidents and accidents involving the resident. III

(59) A record of the resident census as well as records regarding discharge, transfer or death of residents shall be kept in the facility. III

(60) Resident records shall be maintained by the operator for at least five (5) years after the resident leaves the facility or after the resident reaches the age of twenty-one (21), whichever is longer. III

AUTHORITY: sections 198.005, 198.006 and 198.073, (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) 198.076, RSMo 2000. Original rule filed Aug. 23, 2006.

PUBLIC COST: This proposed rule will cost participating residential care facilities II operated by nursing home districts a total annual cost in the aggregate of four hundred fourteen thousand, eight hundred ninety-five dollars (\$414,895).

PRIVATE COST: This proposed rule will cost residential care facilities II a total annual cost in the aggregate of \$11,749,414.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director of the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty(30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

FISCAL NOTE PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	19 CSR 30-86.043 Administrative, Personnel and Resident Care Requirements for Facilities Licensed as a Residential Care Facility II on August 27, 2006 that will comply with Residential Care Facility II Standards
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected agency or political subdivision:	Estimated Cost of Compliance in the Aggregate
4 Facilities formerly Licensed as Residential Care Facility IIs Operated by Nursing Home Districts	Total Yearly Cost in the Aggregate ** \$414,895

III and IV. WORKSHEET AND ASSUMPTIONS

CCS HCS SCS SB 616, (93rd General Assembly, Second Regular Session (2006)) provides that long-term care facilities licensed prior to August 28, 2006 as residential care facility II may continue to meet state laws and regulations in effect on August 27, 2006 for residential care facility IIs. The proposed rule 19 CSR 30-86.043 includes standards that were applicable to residential care facility IIs on August 27, 2006 that will continue to be applicable to facilities choosing to comply with residential care facility II standards in effect on August 27, 2006.

According to DHSS licensure records, there are currently 15 residential care facility IIs operated by nursing home districts. Based on comments received from the long term care industry, DHSS estimates 30% of these facilities will choose to comply with this proposed rule (15 facilities x .30 percentage of facilities choosing to comply with this proposed rule). All costs are based on this percentage (4 facilities). These four facilities represent 1% of the total number of licensed residential care facility IIs (4 facilities / 365 total facilities).

Administrator Costs - This proposed rule requires facility administrators to devote sufficient time and attention to the management of the facility. They are not required to be employed full time. This provision is the same as in existing rule as of August 27, 2006 (19 CSR 30-86.042). The number of hours of employment will depend on the size of the facility and the acuity level of residents. For purposes of this calculation, DHSS divided full-time employment (40 hours) by two. According to a study of administrator salaries conducted in 2000 by Keller & Company, LLC, the average salary of a full-time licensed nursing home administrator was \$48,324. To reach a current salary of \$53,156, this amount has been increased by 10% to account for increases in salary the past six years (\$48,324 x 1.1 = \$53,156). DHSS has added an additional amount for fringe benefits which is based on current fringe benefit rates for state employees.* DHSS estimates yearly costs for facilities in the aggregate to be \$151,037 (\$53,156 x .4207 fringe rate) + (\$53,156) / (2 for half-time

employment) x (4 facilities). Note: this requirement currently exists under 19 CSR 30-86.042 for residential care facility IIs.

Drug Regimen Review – This proposed rule requires facilities to contract with either a registered nurse or pharmacist to conduct resident drug regimen reviews. This review must be conducted every other month. Based on Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised October 1, 2005) the average annual market salary for a registered nurse I is \$35,076, DHSS estimates it will take one eight-hour workday to complete the reviews. DHSS estimates the total yearly cost for facilities in the aggregate to be \$4,025 ($\$35,076 \times .4207$ fringe rate) + ($\$35,076$) / (2080 hours in a work year) x (7 hours) x (6 times per year) x (4 facilities). Note: this requirement currently exists under 19 CSR 30-86.042 for residential care facility IIs.

Staffing – This proposed rule requires facilities to have an adequate number an type of personnel for the proper care of residents and upkeep of the facility. The remaining requirements in this proposed rule other than training relate to tasks of staff employed by a facility. Facilities must have an employee with the qualifications to administer medications on duty at all times, therefore DHSS' estimate is based on the salary of a Level 1 Medication Aide. The proposed rule does not dictate the qualifications for the remaining staff, therefore facilities may use the following formula revised with their own figures to determine the cost to their facility. Based on staffing rations in the proposed rule, facilities will be required to employ 11 employees (day shift = 10,194 current census in residential care facility IIs according to DHSS monthly reports for June, 2006 x .01 percentage of facilities choosing to comply) / (22***) + (evening shift = 10,194 current census in residential care facility IIs according to DHSS monthly reports for June, 2006 x .01 percentage of facilities choosing to comply) / (30***) + (night shift = 10,194 current census in residential care facility IIs according to DHSS monthly reports for June, 2006 x .01 percentage of facilities choosing to comply) / (37***). DHSS estimates current yearly costs for facilities in the aggregate to be \$245,636 ($\$15,718 \times .4207$ fringe rate) + ($\$15,718$) x (11 total employees). Note: this requirement currently exists under 19 CSR 30-86.042 for residential care facility IIs.

In addition to the above requirements, this proposed rule requires facilities to employ a licensed nurse a minimum of eight hours per week for every 45 residents. Licensed nurse hours increase as the facility census increases. DHSS estimates 2 licensed nurses will be required to work eight bours per week (10,194 current census in residential care facility IIs according to DHSS monthly reports x .01 percentage of facilities choosing to comply) / (45****). Based on the Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised October 1, 2005) the average annual market salary for a licenses practical nurse I is \$24,984. DHSS estimates the total yearly cost for facilities in the aggregate to be \$14,197 ($\$24,982 \times .4207$ fringe rate) + ($\$24,982$) / (2080 hours in a work year) x (8 hours) x (52 weeks per year) x (2 LPNs). Note: this requirement currently exists under 19 CSR 30-86.042 for residential care facility IIs.

*The state of Missouri fringe benefit rate for fiscal year 2007 is 42.07 percent which includes retirement contribution, medical insurance, basic life insurance, long-term disability and

Missouri deferred compensation. This rate was used throughout the fiscal note. Facilities can use this formula revised with their own figures to determine the cost to their facility.

****** At an August 7, 2006 public meeting, various members of the long term care industry verbally reported various estimated costs for specific requirements, but did not elaborate how they reached these conclusions.

******* Number of residents requiring one staff person.

******** Number of residents requiring one licensed nurse.

**FISCAL NOTE
PRIVATE COST**

I. RULE NUMBER

Rule Number and Name:	19 CSR 30-86.043 Administrative, Personnel and Resident Care Requirements for Facilities Licensed as a Residential Care Facility II on August 27, 2006 that will comply with Residential Care Facility II Standards
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
106	Facilities Licensed as Residential Care Facility II on August 27, 2006	Total Yearly Cost in the Aggregate \$11,749,414**

III and IV. WORKSHEET AND ASSUMPTIONS

CCS HCS SCS SB 616, (93rd General Assembly, Second Regular Session (2006)) provides that long-term care facilities licensed prior to August 28, 2006 as residential care facility II may continue to meet state laws and regulations in effect on August 27, 2006 for residential care facility IIs. The proposed rule 19 CSR 30-86.043 includes standards that were applicable to residential care facility IIs on August 27, 2006 that will continue to be applicable to facilities choosing to comply with residential care facility II standards in effect on August 27, 2006.

There are currently 365 licensed residential care facility IIs. Fifteen of these residential care facility IIs are public nursing home districts. The fiscal impact to these facilities is described in the public entity fiscal note for this proposed rule. Based on comments received from the long term care industry, DHSS estimates 30% of the 365 total existing residential care facility IIs will choose to comply with this proposed rule ($365 \times .30 = 110$). This number is reduced by 4 facilities to account for existing residential care facility IIs operated by nursing home districts (15 residential care facility IIs operated by nursing home districts \times .30 percentage of residential care facility IIs operated by nursing home districts choosing to comply with this rule). All costs for this proposed rule are based on this number (104 facilities).

Administrator Costs - This proposed rule requires facility administrators to devote sufficient time and attention to the management of the facility. They are not required to be employed full time. This provision is the same as in existing rule as of August 27, 2006 (19 CSR 30-86.042). The number of hours of employment will depend on the size of the facility and the acuity level of residents. For purposes of this calculation, DHSS divided full-time employment (40 hours) by two. According to a study of administrator salaries conducted in 2000 by Keller & Company, LLC, the average salary of a full-time licensed nursing home

administrator was \$48,324. To reach a current salary of \$53,156, this amount has been increased by 10% to account for increases in salary the past six years ($\$48,324 \times 1.1 = \$53,156$). DHSS has added an additional amount for fringe benefits which is based on current fringe benefit rates for state employees.* DHSS estimates yearly costs for facilities in the aggregate to be $\$3,926,974 (\$53,156 \times .4207 \text{ fringe rate}) + (\$53,156) / (2 \text{ for half-time employment}) \times (104 \text{ facilities})$. Note: this requirement currently exists under 19 CSR 30-86.042 for residential care facility IIs.

Drug Regimen Review – This proposed rule requires facilities to contract with either a registered nurse or pharmacist to conduct resident drug regimen reviews. This review must be conducted every other month. Based on Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised October 1, 2005) the average annual market salary for a registered nurse I is \$35,076, DHSS estimates it will take one eight-hour workday to complete the reviews. DHSS estimates the total yearly cost for facilities in the aggregate to be $\$104,648 (\$35,076 \times .4207 \text{ fringe rate}) + (\$35,076) / (2080 \text{ hours in a work year}) \times (7 \text{ hours}) \times (6 \text{ times per year}) \times (104 \text{ facilities})$. Note: this requirement currently exists under 19 CSR 30-86.042 for residential care facility IIs.

Staffing – This proposed rule requires facilities to have an adequate number an type of personnel for the proper care of residents and upkeep of the facility. The remaining requirements in this proposed rule other than training relate to tasks of staff employed by a facility. Facilities must have an employee with the qualifications to administer medications on duty at all times, therefore DHSS' estimate is based on the salary of a Level 1 Medication Aide. The proposed rule does not dictate the qualifications for the remaining staff, therefore facilities may use the following formula revised with their own figures to determine the cost to their facility. Based on staffing rations in the proposed rule, facilities will be required to employ 324 employees (day shift = $10,194 \text{ current census in residential care facility IIs according to DHSS monthly reports for June, 2006} \times .30 \text{ percentage of facilities choosing to comply} / (22^{***}) + (\text{evening shift} = 10,194 \text{ current census in residential care facility IIs according to DHSS monthly reports for June, 2006} \times .30 \text{ percentage of facilities choosing to comply} / (30^{***}) + (\text{night shift} = 10,194 \text{ current census in residential care facility IIs according to DHSS monthly reports for June, 2006} \times .30 \text{ percentage of facilities choosing to comply} / (37^{***}))$. DHSS estimates current yearly costs for facilities in the aggregate to be $\$7,235,102 (\$15,718 \times .4207 \text{ fringe rate}) + (15,718) \times (324 \text{ total employees})$. Note: this requirement currently exists under 19 CSR 30-86.042 for residential care facility IIs.

In addition to the above requirements, this proposed rule requires facilities to employ a licensed nurse a minimum of eight hours per week for every 45 residents. Licensed nurse hours increase as the facility census increases. DHSS estimates 68 licensed nurses will be required to work eight hours per week ($10,194 \text{ current census in residential care facility IIs according to DHSS monthly reports} \times .30 \text{ percentage of facilities choosing to comply} / (45^{****})$). Based on the Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised October 1, 2005) the average annual market salary for a licenses practical nurse I is \$24,984. DHSS estimates the total yearly cost for facilities in the aggregate to be $\$482,690 (\$24,982 \times .4207 \text{ fringe rate}) + (\$24,982) / (2080 \text{ hours in a$

work year) x (8 hours) x (52 weeks per year) x (68 LPNs). Note: this requirement currently exists under 19 CSR 30-86.042 for residential care facility IIs.

***The state of Missouri fringe benefit rate for fiscal year 2007 is 42.07 percent which includes retirement contribution, medical insurance, basic life insurance, long-term disability and Missouri deferred compensation. This rate was used throughout the fiscal note. Facilities can use this formula revised with their own figures to determine the cost to their facility.**

**** At an August 7,2006 public meeting, various members of the long term care industry verbally reported various estimated costs for specific requirements, but did not elaborate how they reached these conclusions.**

***** Number of residents requiring one staff person.**

****** Number of residents requiring one licensed nurse.**

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities [I and II] and
Assisted Living Facilities**

PROPOSED AMENDMENT

19 CSR 30-86.045 Standards and Requirements for [Residential Care Facilities II] Assisted Living Facilities Which Provide Services to Residents with [Alzheimer's Disease or Other Dementia] a Physical, Cognitive, or Other Impairment that Prevents the Individual from Safely Evacuating the Facility with Minimal Assistance. The department is adding section (1); amending the title, sections (1), (2) and (3); deleting sections (4), (5), (6) and (7); and renumbering throughout.

PURPOSE: This amendment deletes the term residential care facility II used in this rule and replaces the term "residential care facility II" with "assisted living facility"; establishes the additional standards for assisted living facilities that admit or retain individuals having a physical, cognitive or other impairment that prevents the individual from safely evacuating the facility with minimal assistance; defines the terms "area of refuge," "evacuating the facility," "individualized evacuation plan," "minimal assistance," "resident" and "smoke section"; and changes the name of the agency throughout the rule due to the transfer of the Division of Aging from the Department of Social Services to the Department of Health and Senior Services effective August 28, 2001.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

EDITOR'S NOTE: All rules relating to long-term care facilities licensed by the [Division of Aging] department are followed by a Roman Numeral notation which refers to the class (either Class I, II or III) of standard as designated in section 198.085.1, RSMo.

(1) This rule contains the additional standards for those assisted living facilities licensed pursuant to sections 198.005 and 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) and complying with sections 198.073.4 and 198.073.6, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) and 19 CSR 30-86.047 that choose to admit or continue to care for any individual having a physical, cognitive or other impairment that prevents the individual from safely evacuating the facility with minimal assistance.

[[1]] (2) Definitions. For the purposes of this rule, the following definitions shall apply:

[(A) Activities of daily living (ADLs) mean a resident's ability to eat, bathe, toilet, dress, transfer and ambulate.].

[(B) Chemical restraint means a psychopharmacologic drug that is used for discipline or convenience and is not required to treat medical symptoms.].

[(C) Convenience means any action taken by the facility to control resident behavior or maintain residents with a lesser amount of effort by the facility and not in the resident's best interests.

[(D) Discipline means any action taken by the facility for the purpose of punishing or penalizing residents.

[(E) Individual service plan means the planning document which outlines and describes the services to be provided and the outcomes expected in order to meet the resident's needs.

[(F) Licensed professional means any of the following:

1. Physician, as defined in and licensed under the provisions of Chapter 334, RSMo;

2. Nurse, as defined in and licensed under the provisions of Chapter 335, RSMo;

3. Psychologist, as defined in and licensed under the provisions of Chapter 337, RSMo;

4. Professional counselor, as defined in and licensed under the provisions of Chapter 337, RSMo; and

5. Clinical social worker, as defined in and licensed under the provisions of Chapter 337, RSMo.

[(G) Physical restraint means any physically applied method, or mechanical device which the resident cannot easily remove, that restricts the free movement or normal functioning of any portion of the resident's body, or the resident's normal access to common areas and his or her personal spaces.

[(H) Resident, only for the purpose of this rule, means an individual who is mentally incapable of negotiating a pathway to safety due to Alzheimer's disease or other dementia who is admitted to or continues to be cared for in the facility under the provisions of this rule.

[(I) Significant change means any change in the resident's physical, emotional or psychosocial condition or behavior that would require an adjustment or modification in the resident's treatment or services.].

(A) Area of refuge—A space located in or immediately adjacent to a path of travel leading to an exit that is protected from the effects of fire, either by means of separation from other spaces in the same building or its location, permitting a delay in evacuation. An area of refuge may be temporarily used as a staging area that provides some relative safety to its occupants while potential emergencies are assessed, decisions are made, and evacuation has begun;

(B) Evacuating the facility—The act of the resident going from one smoke section to another within the facility, going to an area of refuge within the facility, or going out of the facility;

(C) Individualized evacuation plan—A plan to remove the resident from the facility, to an area of refuge within the facility or from one smoke section to another within the facility. The plan is specific to the resident's needs and abilities based on the current community based assessment;

(D) Minimal assistance—

1. Is the criterion which determines whether or not staff must develop and include an individualized evacuation plan as part of the resident's service plan;

2. Minimal assistance may be the verbal intervention that staff must provide for a resident to initiate evacuating the facility;

3. Minimal assistance may be the physical intervention that staff must provide, such as turning a resident in the correct direction, for a resident to initiate evacuating the facility;

4. A resident needing minimal assistance is one who is able to prepare to leave and then evacuate the facility within five (5) minutes of being alerted of the need to evacuate and requires no more than one (1) physical intervention and no more than three (3) verbal interventions of staff to complete evacuation from the facility;

5. The following actions required of staff are not considered to be minimal assistance:

A. Assistance to traverse down stairways;

B. Assistance to open a door; and

C. Assistance to propel a wheelchair;

(E) Resident, only for the purpose of this rule, means any individual having a physical, cognitive or other impairment that prevents the individual from safely evacuating the facility with minimal assistance who is admitted to or continues to be cared for in the facility under the provisions of this rule; and

(F) Smoke section—A fire-rated separation of one section of the building from the rest of the building.

[(2)] (3) General Requirements. I/II

[(A) A residential care facility II which admits or continues to care for persons who have been diagnosed with Alzheimer's disease or other dementia who are physically capable but mentally incapable of negotiating a pathway to safety with the use of assistive devices or aids when necessary, shall not care for such residents unless:

1. The resident has been diagnosed with Alzheimer's disease or other dementia by a physician licensed to practice medicine; and

2. The facility is able to provide appropriate services for and meet the needs of the resident. I/II]

(A) If the facility admits or retains any individual needing more than minimal assistance due to having a physical, cognitive or other impairment that prevents the individual from safely evacuating the facility, the facility shall:

1. Meet the fire safety requirements of 19 CSR 30-86.022 (16); I/II

2. Take necessary measures to provide residents with the opportunity to explore the facility and, if appropriate, its grounds; II

3. Use a personal electronic monitoring device for any resident whose physician recommends the use of such device; II

4. Have sufficient staff present and awake twenty-four (24) hours a day to assist in the evacuation of all residents; I/II

5. Include an individualized evacuation plan in the resident's individual service plan; II

6. At a minimum the evacuation plan shall include the following components:

A. The responsibilities of specific staff in an emergency specific to the individual; II

B. The fire protection interventions needed to ensure the safety of the resident; and II

C. The plan shall evaluate the resident for his or her location within the facility and the proximity to exits and areas of refuge. The plan shall evaluate the resident, as applicable, for his or her risk of resistance, mobility, the need for additional staff support, consciousness, response to instructions, response to alarms, and fire drills; II

7. The resident's evacuation plan shall be amended or revised based on the ongoing assessment of the needs of the resident; II

8. All employees shall be instructed and informed regarding their duties and responsibilities under the resident's evacuation plan at least every two (2) months and upon any significant change in the plan; II

9. A copy of the resident's evacuation plan shall be readily available to all staff; and II

10. Comply with all requirements of this rule. I/II

[(B) A residential care facility II may admit or continue to care for residents who have been diagnosed with Alzheimer's disease or other dementia if the residents are physically capable but mentally incapable of negotiating a pathway to safety with the use of assistive devices or aids when necessary, providing the facility is in substantial compliance with the provisions of Chapter 198, RSMo and all regulations under which the facility is licensed by the Division of Aging. I/II]

[(C) A residential care facility II which admits or continues to care for persons who have been diagnosed with Alzheimer's disease or other dementia who are physically

capable but mentally incapable of negotiating a pathway to safety with the use of assistive devices or aids when necessary, shall comply with the provisions of the Alzheimer's Special Care Disclosure Act pursuant to sections 198.500 to 198.515, RSMo. The facility shall complete, and submit to the Division of Aging, an Alzheimer's Special Care Services Disclosure form (MO Form 886-3548), which is incorporated by reference in this rule. II]

[(D) A residential care facility II which admits or continues to care for persons who have been diagnosed with Alzheimer's disease or other dementia who are physically capable but mentally incapable of negotiating a pathway to safety with the use of assistive devices or aids when necessary, shall not admit, retain or continue to care for any resident who is mentally incapable of negotiating a pathway to safety with the use of assistive devices or aids who:

1. Has exhibited behaviors which indicate that the resident is a danger to self or others;

2. Is at constant risk of elopement and, despite repeated interventions which have not altered the resident's behavior, continues to be a danger to self;

3. Requires physical or chemical restraint as defined in this rule;

4. Requires skilled nursing services as defined in section 198.006(17), RSMo for which the facility is not licensed or able to provide;

5. Requires more than one person to simultaneously provide physical assistance to the resident with any activity of daily living, with the exception of bathing; or

6. Is bed-bound or chair-bound and is unable to ambulate due to a debilitating or chronic condition. I/II]

[(3)] (4) Physical Design and Fire Safety Requirements.

[(A) The facility shall be equipped with a complete sprinkler system installed and maintained in accordance with the 1996 edition of the National Fire Protection Association (NFPA) 13, Standard for the Installation of Sprinkler Systems or the 1996 edition of NFPA 13R, Sprinkler Systems in Residential Occupancies Up To and Including Four Stories in Height, which are incorporated by reference in this rule I/II]

(A) All facilities must comply with the following requirements:

1. The facility shall be equipped with a complete electrically supervised fire alarm system in accordance with the provisions of subsection 13-3.4 of the 1997 *Life Safety Code for Existing Health Care Occupancy*, incorporated herein by reference and available from the National Fire Protection Agency, 1 Batterymarch Park, Quincy, MA 02269-9101. This rule does not incorporate any subsequent amendments or additions to these materials. At a minimum the system shall include smoke detectors located no more than thirty feet (30') apart in corridors with no point in the corridor located more than fifteen feet (15') from a smoke detector. The fire alarm system shall be equipped to automatically transmit an alarm to the fire department; I/II

2. Each floor used for resident bedrooms shall be divided into at least two (2) smoke sections by one (1)-hour rated smoke stop partitions. No smoke section shall exceed one hundred fifty feet (150') in length. At a minimum, openings in smoke stop partitions shall be protected by one and three-fourths inches (1 3/4")-thick solid core wood doors or labeled, fire rated doors with an equivalent or greater fire rating. The doors shall be equipped with closures and if held open, shall be equipped with magnetic hold-open devices that automatically release upon activation of the fire alarm system. Any duct passing through this smoke wall shall be equipped with automatic resetting smoke dampers that are activated by the fire alarm system. Smoke dampers are not required where both smoke sections are protected throughout the entire section by quick response sprinklers on an NFPA 13 system. Smoke partitions shall extend from outside wall-to-outside wall and from floor-to-floor or floor-to-roof deck; and II

3. In addition to the requirements at subsections (4)(A)1. and 2. of this rule, all facilities shall be equipped with a complete automatic sprinkler system installed and maintained in accordance with the following:

A. The 1996 edition of the National Fire Protection Association (NFPA) 13, *Standard for the Installation of Sprinkler Systems* (1996 edition of NFPA 13); or

B. The 1996 edition of NFPA 13R, *Sprinkler Systems in Residential Occupancies Up To and Including Four Stories in Height* (1996 edition of NFPA 13R), which are incorporated herein by reference and available from the National Fire Protection Agency, 1 Batterymarch Park, Quincy, MA 02269-9101. This rule does not incorporate any subsequent amendments or additions to these materials; and

C. Single story facilities must comply with either NFPA 13 or NFPA 13 R;

D. Multistory facilities must comply with NFPA 13. I/II

(I/B) The facility shall be equipped with a complete electrically supervised fire alarm system in accordance with the provisions of the 1997 Life Safety Code for Existing Health Care Occupancy, incorporated by reference in this rule. The system shall include smoke detectors located no more than thirty feet (30') apart in corridors with no point in the corridor located more than fifteen feet (15') from a smoke detector. The fire alarm system shall be equipped to automatically transmit an alarm to the fire department. I/II

(C) Each floor used for resident bedrooms in shall be divided into at least two (2) smoke sections by one (1)-hour rated smoke stop partitions. No smoke section shall exceed one hundred fifty feet (150') in length. If, however, neither the length nor width of a floor exceeds seventy-five feet (75'), no smoke partitions are required. Openings in smoke stop partitions shall be protected by one and three-fourths inches (1 3/4")-thick solid core wood doors or metal doors with an equivalent fire rating. The doors shall be equipped with closers and magnetic hold-open devices. Any duct passing through this smoke wall shall be equipped with automatic resetting smoke dampers that are activated by the fire alarm system. Smoke partitions shall extend from outside wall-to-outside wall and from floor-to-floor or floor-to-roof deck. II

(D) In a multilevel facility, residents who are mentally incapable of negotiating a pathway to safety shall be housed only on a ground floor. The ground floor shall be any floor that has at least one exit at grade. All other required exits shall be at grade, or with no more than two steps to grade, or with a ramp to grade. The ramp shall have a maximum slope of one to twelve (1:12) leading to grade. II

(E) When a resident resides among the entire general population of the facility, the facility shall take necessary measures to provide such residents with the opportunity to explore the facility and, if appropriate, its grounds. When a resident resides within a designated, separated area that is secured by limited access, the facility shall take necessary measures to provide such residents with the opportunity to explore the separated area and, if appropriate, its grounds. If enclosed or fenced courtyards are provided, residents shall have reasonable access to such courtyards. Enclosed or fenced courtyards that are accessible through a required exit door shall be large enough to provide an area of refuge for fire safety at least thirty feet (30') from the building. Enclosed or fenced courtyards that are accessible through a door other than a required exit shall have no size requirements. II

(F) The facility shall provide freedom of movement for the residents to common areas and to their personal spaces. The facility shall not lock residents out of or inside their rooms. I/II

(G) The facility may allow resident room doors to be locked providing the residents request to lock their doors. Any lock on a resident room door shall not require the use of a key, tool, special knowledge or effort to lock or unlock the door from inside the resident's room. Only one (1) lock shall be permitted on each door. The facility shall ensure that facility staff have the means or mechanisms necessary to open resident room doors in case of an emergency. I/II

(H) Every facility shall use a personal electronic monitoring device for any resident whose physician recommends the use of such device. II

(I) The facility may provide a designated, separated area where residents, who are mentally incapable of negotiating a pathway to safety, reside and receive services and which is secured by limited access if the following conditions are met:

1. Dining rooms, living rooms, activity rooms, and other such common areas shall be provided within the designated, separated area. The total area for common areas within the designated, separated area shall be equal to at least forty (40) square feet per resident; II/III

2. Doors separating the designated, separated area from the remainder of the facility or building shall not be equipped with locks that require a key to open; I/II

3. If locking devices are used on exit doors egressing the facility or on doors accessing the designated, separated area, delayed egress magnetic locks shall be used. These delayed egress devices shall comply with the following:

A. The lock must unlock when the fire alarm is activated;

B. The lock must unlock when the power fails;

C. The lock must unlock within thirty (30) seconds after the release device has been pushed for at least three (3) seconds, and an alarm must sound adjacent to the door;

D. The lock must be manually reset and cannot automatically reset; and

E A sign shall be posted on the door that reads: PUSH UNTIL ALARM SOUNDS, DOOR CAN BE OPENED IN 30 SECONDS. I/II

4. The delayed egress magnetic locks may also be released by a key pad located adjacent to the door for routine use by staff. I/II

(4) Staffing Requirements.

(A) The facility shall be staffed twenty-four (24) hours a day by the adequate number and type of personnel necessary for the proper care of residents and upkeep of the facility in accordance with the staffing requirements found in 13 CSR 15-15.042. In meeting such staffing requirements, every resident who is mentally incapable of negotiating a pathway to safety shall count as a three (3) residents. I/II

(B) All on-duty staff of the facility shall, at all times, be awake, dressed in on-duty work attire, and prepared to assist residents in case of emergency. I/II

(5) Assessments and Individual Service Plans.

(A) Prior to admitting or continuing to care for a resident diagnosed with Alzheimer's disease or other dementia, a family member or legal representative of the resident, in consultation with the resident's primary physician, shall meet with a facility representative to determine if the facility can meet the needs of the resident. The facility shall document the decisions regarding admission or continued placement in the facility through written verification by the family member, physician and the facility representative. II

(B) After consultation, if the facility admits or continues to care for the resident, a Minimum Data Set (MDS) assessment shall be completed on an MDS form provided by the

Division of Aging to assess the needs of each resident who is mentally incapable of negotiating a pathway to safety. II/III

(C) Each resident shall be assessed by a licensed professional, as defined in subsection (1)(F) of this rule, by use of the MDS:

- 1. Within ten (10) days of admission; and*
- 2. Every one hundred eighty (180) days thereafter; or*
- 3. Whenever a significant change occurs in the resident's condition as defined in subsection (1)(I) of this rule.*

I/II

(D) Based on the MDS assessment, an interdisciplinary team shall develop an individual service plan for each resident who is mentally incapable of negotiating a pathway to safety. Whenever possible and appropriate, the resident, family members or other individuals instrumental in identifying the needs of, or providing treatment or services to, the resident shall be involved in the development or revision of the individual service plan. Every individual service plan shall be signed by each person participating in its development. II/III

(E) An individual service plan shall be completed and implemented within twenty (20) days after the completion of an MDS assessment of a resident. I/II

(F) An individual service plan shall describe the resident's needs and preferences, the specific methods and services to meet those needs, desired outcomes or interventions, and the names of the staff, service provider, and if applicable, family members who are primarily responsible for implementing the individual service plan. At a minimum, the individual service plan for each resident shall identify:

- 1. The resident's capabilities, strengths, potential, preferences and customary behaviors;*
- 2. The resident's behavioral, medical and social needs based on the assessment;*
- 3. The services provided to meet the needs of the resident;*
- 4. The expected outcomes of the services provided; and*
- 5. Staff or other persons responsible for providing the services to meet the needs of the resident. II/II*

(G) The facility shall make each resident's individual service plan available for use to all persons providing services to that resident. II/III

(6) Staff Training and Orientation.

(A) All facility personnel who provide direct care to residents who are mentally incapable of negotiating a pathway to safety shall receive at least twenty-four (24) hours of training within the first thirty (30) days of employment.

- 1. At least twelve (12) hours of the twenty-four (24) hours of training shall be classroom instructions; and*
- 2. Six (6) classroom instruction hours and two (2) on-the-job training hours shall be related to the special needs, care and safety of residents with dementia. II*

(B) The in-service training requirements for personnel in a facility that provides services for residents who are mentally incapable of negotiating a pathway to safety, shall be determined as follows:

- 1. If the residents reside among the entire general population of the facility, all facility personnel, whether or not such personnel provide direct care to these residents, shall receive at least four (4) hours of in-service training on a quarterly basis, with at least two (2) such hours relating to the care and safety of residents who are mentally incapable of negotiating a pathway to safety; or*
- 2. If the residents reside within a designated, separated area that is secured by limited access, those personnel who have or could have contact with these residents, shall receive at least four (4) hours of in-service training on a quarterly basis, with at least two (2) such hours relating to the care and safety of residents who are mentally incapable*

of negotiating a pathway to safety. II

(C) Any training related to the special needs, treatment and safety of residents with dementia shall include, but not be limited to, the following:

- 1. An overview of Alzheimer's disease and other dementia;*
- 2. Communication techniques which are effective in enhancing and maintaining communication skills for residents with dementia;*
- 3. Components of or techniques for creating a safe, secure and socially oriented environment for residents with dementia;*
- 4. Provision of structure, stability and a sense of routine for residents based on their needs;*
- 5. Effective management of different or difficult behaviors; and*
- 6. Issues involving families and care givers. II/III*

(D) The initial twenty-four (24) hours of training required within the first thirty (30) days of employment shall include, at a minimum, all of the components in subsection (6)(C) of this rule. II

(E) The in-service training to be provided on a quarterly basis shall include at least four (4) hours of in-service training, with at least two (2) such hours relating to the care and safety of residents who are mentally incapable of negotiating a pathway to safety. Each component listed in subsection (6)(C) of this rule must be included over the course of each twelve (12)-month period. II

(F) All in-service or orientation training relating to the special needs, care and safety of residents who are mentally incapable of negotiating a pathway to safety shall be conducted, presented or provided by a training instructor who is qualified by education, experience or knowledge in the care of individuals with Alzheimer's disease or other dementia. II/III

(7) Programs and Services for Residents Who are Mentally Incapable of Negotiating a Pathway to Safety.

(A) Each facility shall make available and implement self-care, productive and leisure activity programs for persons with dementia which maximize and encourage the resident's optimal functional ability. The facility shall provide activities that are appropriate to the resident's individual needs, preferences, background and culture. Individual or group activity programs may consist of the following:

- 1. Gross motor activities, such as exercise, dancing, gardening, cooking and chores;*
- 2. Self-care activities, such as dressing, grooming and personal hygiene;*
- 3. Social and leisure activities, such as games, music and reminiscing;*
- 4. Sensory enhancement activities, such as auditory, olfactory, visual and tactile stimulation;*
- 5. Outdoor activities, such as walking and field trips;*
- 6. Creative arts; or*
- 7. Other social, leisure or therapeutic activities that encourage mental and physical stimulation or enhance the resident's well-being. II/III*

(B) The facility shall develop and implement written policies and procedures which address, at a minimum:

- 1. The facility's admission, transfer and discharge criteria taking into account the individual's needs and the facility's ability to meet those needs;*
- 2. The basic services provided or offered to residents with Alzheimer's disease or other dementia;*
- 3. The procedures and actions to be taken in the event of resident elopement;*
- 4. The development and implementation of individual service plans;*
- 5. The assignment of staff to residents based on the*

resident's needs which minimize resident confusion and maintain familiarity with environment;

6. Staff orientation and in-service training relating to the special needs, care and safety of residents with dementia;

7. Fire drill and emergency evacuation procedures for residents who are mentally incapable of negotiating a path-way to safety; and

8. The protection of the rights, privacy and safety of residents and the prevention of financial exploitation of residents. II/III]

AUTHORITY: sections 198.005 and 198.073, RSMo [2000] (CCS HCS SCS SB616, 93rd General Assembly, Second Regular Session (2006)), and 198.076, RSMo 2000. This rule originally filed as 13 CSR 15-15.045. Emergency rule filed Dec. 14, 2000, effective Jan. 2, 2001, expired June 30, 2001. Original rule filed Dec. 14, 2000, effective June 30, 2001. Moved to 19 CSR 30-86.045, effective Aug. 28, 2001. Amended: Filed Aug. 23, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director, Division of Regulation and Licensure, Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 30—Division of Regulation and Licensure Chapter 86—Residential Care Facilities and Assisted Living Facilities

PROPOSED RULE

19 CSR 30-86.047 Administrative, Personnel and Resident Care Requirements for Assisted Living Facilities

PURPOSE: This rule establishes standards for all assisted living facilities licensed pursuant to sections 198.005 and 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) and required to meet assisted living facility standards pursuant to section 198.073.3, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) and section 198.076, RSMo 2000.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

EDITOR'S NOTE: All rules relating to long-term care facilities licensed by the department are followed by a Roman Numeral notation which refers to the class (either Class I, II or III) of standard as designated in section 198.085.1, RSMo.

(1) Facilities licensed as assisted living facilities shall be inspected pursuant to the standards outlined herein beginning April 1, 2007. An assisted living facility may request, in writing to the department, to comply with these standards prior to April 1, 2007. Upon receipt of the request, the department shall conduct an inspection to determine compliance with the standards outlined herein prior to issuing a license indicating such compliance.

(2) Consumer Education Requirements. The facility shall disclose to a prospective resident, or legal representative of the resident information regarding the services the facility is able to provide or coordinate, the cost of such services to the resident, and the resident conditions that will require discharge or transfer including the provisions of this rule. II

(3) Nothing in this rule shall be construed to allow any facility that has not met the requirements of 198.073(4) and (6), RSMo, (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) and 19 CSR 30-86.045 to care for any individual with a physical, cognitive or other impairment that prevents the individual from safely evacuating the facility with minimal assistance. I/II

(4) Definitions. For the purpose of this rule, the following definitions shall apply:

(A) Appropriately trained and qualified individual means an individual who is licensed or registered with the state of Missouri in a health care related field or an individual with a degree in a health care related field or an individual with a degree in a health care, social services, or human services field or an individual licensed under Chapter 344, RSMo, and who has received facility orientation training under 19 CSR 30-86.042(18), and dementia training under section 660.050, RSMo, and twenty-four (24) hours of additional training, approved by the department, consisting of definition and assessment of activities of daily living, assessment of cognitive ability, service planning, and interview skills;

(B) Area of refuge—A space located in or immediately adjacent to a path of travel leading to an exit that is protected from the effects of fire, either by means of separation from other spaces in the same building or its location, permitting a delay in evacuation. An area of refuge may be temporarily used as a staging area that provides relative safety to its occupants while potential emergencies are assessed, decisions are made, and evacuation is begun;

(C) Assisted living facility (ALF)—Is as defined in 19 CSR 30-83.010;

(D) Chemical restraint—Is as defined in 19 CSR 30-83.010;

(E) Community based assessment—Documented basic information and analysis provided by appropriately trained and qualified individuals describing an individual's abilities and needs in activities of daily living, instrumental activities of daily living, vision/hearing, nutrition, social participation and support, and cognitive functioning using an assessment tool approved by the department, that is designed for community based services and that is not the nursing home minimum data set. The assessment tool may be one developed by the department or one used by a facility which has been approved by the department;

(F) Evacuating the facility—For the purpose of this rule, evacuating the facility shall mean moving to an area of refuge or from one smoke section to another or exiting the facility;

(G) Home-like—Means a self-contained long-term care setting that integrates the psychosocial, organizational and environmental qualities that are associated with being at home. Home-like may include, but is not limited to the following:

1. A living room and common use areas for social interactions and activities;
2. Kitchen and family style eating area for use by the residents;
3. Laundry area for use by residents;
4. A toilet room that contains a toilet, lavatory and bathing unit in each resident's room;

5. Resident room preferences for residents who wish to share a room, and for residents who wish to have private bedrooms;

6. Outdoor area for outdoor activities and recreation; and

7. A place where residents can give and receive affection, explore their interests, exercise control over their environment, engage in interactions with others and have privacy, security, familiarity and a sense of belonging;

(H) Individualized service plan (ISP)—Means the planning document which outlines and describes the services to be provided and the outcomes expected in order to meet the resident's needs, abilities, desires and preferences;

(I) Keeping residents in place—Means maintaining residents in place during a fire in lieu of evacuation where a building's occupants are not capable of evacuation or where evacuation has a low likelihood of success;

(J) Minimal Assistance—

1. If a resident requires more than minimal assistance to evacuate the facility as described in this subsection, he or she cannot reside in an assisted living facility unless that facility also complies with 19 CSR 30-86.045 standards;

2. Minimal assistance may be the verbal intervention that staff must provide for a resident to initiate evacuating the facility;

3. Minimal assistance may be the physical intervention that staff must provide, such as turning a resident in the correct direction, for a resident to initiate evacuating the facility;

4. A resident needing minimal assistance is one who is able to prepare to leave and then evacuate the facility within five (5) minutes of being alerted of the need to evacuate and requires no more than one (1) physical intervention and no more than three (3) verbal interventions of staff to complete evacuation from the facility;

5. The following actions required of staff are not considered to be minimal assistance:

A. Assistance to traverse down stairways;

B. Assistance to open a door; and

C. Assistance to propel a wheelchair;

(K) Physical restraint—Any manual method or physical or mechanical device, material or equipment attached to or adjacent to the resident's body that the individual cannot remove easily which restricts freedom of movement or normal access to one's body. Physical restraints include, but are not limited to leg restraints, arm restraints, hand mitts, soft ties or vests, lap cushions and lap trays the resident cannot remove easily. Physical restraints also include facility practices that meet the definition of a restraint, such as the following:

1. Using side rails that keep a resident from voluntarily getting out of bed;

2. Tucking in or using Velcro to hold a sheet, fabric or clothing tightly so that a resident's movement is restricted;

3. Using devices in conjunction with a chair, such as trays, tables, bars or belts, that the resident cannot remove easily, that prevent the resident from rising;

4. Placing the resident in a chair that prevents a resident from rising; and

5. Placing a chair or bed so close to a wall that the wall prevents the resident from rising out of the chair or voluntarily getting out of bed;

(L) Significant change—Means a change in the resident's physical, emotional or psychosocial condition or behavior of such a degree that it would require an adjustment or modification in the resident's treatment or services;

(M) Skilled nursing facility—Means any premises, other than a residential care facility, assisted living facility or an intermediate care facility, which is utilized by its owner, operator or manager to provide for twenty-four hour accommodation, board and skilled nursing care and treatment services to at least three (3) residents who are not related within the fourth degree of consanguinity or affinity to the owner, operator or manager of the facility. Skilled nursing care and treatment services are those services commonly performed by or under the supervision of a registered professional nurse for individuals requiring twenty-four (24)-hours-a-day care by licensed nursing

personnel including acts of observation, care and counsel of the aged, ill, injured or infirm, the administration of medications and treatments as prescribed by a licensed physician or dentist, and other nursing functions requiring substantial specialized judgment and skill;

(N) Skilled nursing placement—Means placement in a skilled nursing facility as defined in subsection (4)(M) of this rule; and

(O) Social model of care—Means long-term care services based on the abilities, desires, and functional needs of the individual delivered in a setting that is more home-like than institutional, that promote the dignity, individuality, privacy, independence and autonomy of the individual, that respects residents' differences and promotes residents' choices.

(5) The operator shall designate an individual for administrator who is currently licensed as a nursing home administrator under Chapter 344, RSMo. II

(6) The operator shall be responsible to assure compliance with all applicable laws and regulations. The administrator shall be fully authorized and empowered to make decisions regarding the operation of the facility and shall be held responsible for the actions of all employees. The administrator's responsibilities shall include oversight of residents to assure that they receive care appropriate to their needs. II/III

(7) The administrator shall devote sufficient time and attention to the management of the facility as is necessary for the health, safety and welfare of the residents. II

(8) The administrator cannot be listed or function in more than one (1) licensed facility at the same time unless he or she serves no more than five (5) facilities within a thirty (30)-mile radius and licensed to serve in total no more than one hundred (100) residents, and the administrator has an individual designated as the daily manager of each facility. However, the administrator may serve as the administrator of more than one (1) licensed facility if all facilities are on the same premises. II

(9) The administrator shall designate, in writing, a staff member in charge in the administrator's absence. If the administrator is absent for more than thirty (30) consecutive days, during which time he or she is not readily accessible for consultation by telephone with the delegated individual, the individual designated to be in charge shall be a currently licensed nursing home administrator. Such thirty (30)-consecutive-day absences may only occur once within any consecutive twelve (12)-month period. II/III

(10) The facility shall not care for more residents than the number for which the facility is licensed. However, if the facility operates a non-licensed adult day care program for four (4) or fewer participants within the licensed facility, the day care participants shall not be included in the total facility census. Adult day care participants shall be counted in staffing determination during the hours the day care participants are in the facility. II/III

(11) The facility shall not admit or continue to care for residents whose needs cannot be met. If necessary services cannot be obtained in or by the facility, the resident shall be promptly referred to appropriate outside resources or discharged from the facility. I/II

(12) All personnel responsible for resident care shall have access to the legal name of each resident, name and telephone number of resident's physician, resident's designee or legally authorized representative in the event of emergency. II/III

(13) All persons who have any contact with the residents in the facility shall not knowingly act or omit any duty in a manner that would

materially and adversely affect the health, safety, welfare or property of residents. No person who is listed on the department's Employee Disqualification List (EDL) shall work or volunteer in the facility in any capacity whether or not employed by the operator. For the purpose of this rule, a volunteer is an unpaid individual formally recognized by the facility as providing a direct care service to residents. The facility is required to check the EDL for individuals who volunteer to perform a service for which the facility might otherwise have to hire an employee. The facility is not required to check the EDL for individuals or groups such as scout groups, bingo or sing-along leaders. The facility is not required to check the EDL for an individual such as a priest, minister or rabbi visiting a resident who is a member of the individual's congregation. However, if a minister, priest or rabbi serves as a volunteer facility chaplain, the facility is required to check to determine if the individual is listed on the EDL since the individual would have contact with all residents. II/II

(14) Prior to allowing any person who has been hired in a full-time, part-time or temporary employee position to have contact with any residents the facility shall, or in the case of temporary employees hired through or contracted from an employment agency, the employment agency shall prior to sending a temporary employee to a provider:

(A) Request a criminal background check for the person, as provided in section 43.540, RSMo. Each facility must maintain in its record documents verifying that the background checks were requested and the nature of the response received for each such request.

1. The facility must ensure that any applicant or person hired or retained who discloses prior to the receipt of the criminal background check that he/she has been convicted of, pled guilty or pled *nolo contendere* to in this state or any other state or has been found guilty of a crime, which if committed in Missouri would be a Class A or B felony violation of Chapter 565, 566, or 569, RSMo or any violation of subsection 198.070.3, RSMo or of section 568.020, RSMo, will not have contact with residents. II/III

2. Upon receipt of the criminal background check, the facility must ensure that if the criminal background check indicates that the person hired or retained by the facility has been convicted of, pled guilty or pled *nolo contendere* to in this state or any other state or has been found guilty of a crime, which if committed in Missouri would be a Class A or B felony violation of Chapter 565, 566, or 569, RSMo or any violation of subsection 198.070.3, RSMo or of section 568.020, RSMo, the person will not have contact with residents unless the facility obtains verification from the department that a good cause waiver has been granted and maintains a copy of the verification in the individual's personnel file. II/III

(B) Make an inquiry to the department, whether the person is listed on the employee disqualification list as provided in section 660.315, RSMo. The inquiry may be made via Internet at www.dhss.mo.gov/EDL/. II/III

(C) If the person has registered with the department's Family Care Safety Registry (FCSR), the facility may utilize the Registry in order to meet the requirements of subsections (14)(A) and (14)(B) of this rule. The FCSR is available via Internet at www.dhss.mo.gov/FCSR/BackgroundCheck.html. II/III

(D) For persons for whom the facility has contracted for professional services (i.e. plumbing or air conditioning repair) that will have contact with any resident, the facility must require a criminal background check or ensure that the individual is accompanied by a facility staff person while in the facility. II/III

(15) A facility shall not employ as an agent or employee who has access to controlled substances any person who has been found guilty or entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States for any offense related to controlled substances. II

(A) A facility may apply in writing to the department for a waiver of this section of this rule for a specific employee.

(B) The department may issue a written waiver to a facility upon determination that a waiver would be consistent with the public health and safety. In making this determination, the department shall consider the duties of the employee, the circumstances surrounding the conviction, the length of time since the conviction was entered, whether a waiver has been granted by the department's Bureau of Narcotics and Dangerous Drugs pursuant to 19 CSR 30-1.034 when the facility is registered with that agency, whether a waiver has been granted by the federal Drug Enforcement Administration (DEA) pursuant to 21 CFR 1301.76 when the facility is also registered with that agency, the security measures taken by the facility to prevent the theft and diversion of controlled substances, and any other factors consistent with public health and safety. II

(16) The facility must develop and implement written policies and procedures which require that persons hired for any position which is to have contact with any patient or resident have been informed of their responsibility to disclose their prior criminal history to the facility as required by section 660.317.5, RSMo. The facility must also develop and implement policies and procedures which ensure that the facility does not knowingly hire, after August 28, 1997, any person who has or may have contact with a patient or resident, who has been convicted of, plead guilty or *nolo contendere* to, in this state or any other state, or has been found guilty of any Class A or B felony violation of Chapter 565, 566 or 569, RSMo, or any violation of subsection 3 of section 198.070, RSMo, or of section 568.020, RSMo. II/III

(17) All persons who have or may have contact with residents shall at all times when on duty or delivering services wear an identification badge. The badge shall give their name, title and, if applicable, the status of their license or certification as any kind of health care professional. This rule shall apply to all personnel who provide services to any resident directly or indirectly. III

(18) Personnel who have been diagnosed with a communicable disease may begin work or return to duty only with written approval by a physician or physician's designee, which indicates any limitations. II

(19) The administrator shall be responsible to prevent an employee known to be diagnosed with communicable disease from exposing residents to such disease. The facility's policies and procedures must comply with the department's regulations pertaining to communicable diseases, specifically 19 CSR 20-20.010 through 19 CSR 20-20.100. II / III

(20) The facility shall screen residents and staff for tuberculosis as required for long-term care facilities by 19 CSR 20-20.100. II

(21) The administrator shall maintain on the premises an individual personnel record on each facility employee, which shall include the following:

(A) The employee's name and address;

(B) Social Security number;

(C) Date of birth;

(D) Date of employment;

(E) Documentation of experience and education including for positions requiring licensure or certification, documentation evidencing competency for the position held, which includes copies of current licenses, transcripts when applicable, or for those individuals requiring certification, such as certified medication technicians, level I medication aides and insulin administration aides; printing the Web Registry search results page available at www.dhss.mo.gov/cnaregistry shall meet the requirements of the employer's check regarding valid certification;

(F) References, if available;

(G) The results of background checks required by section 660.317,

RSMo; and a copy of any good cause waiver granted by the department, if applicable;

(H) Position in the facility;

(I) Written statement signed by a licensed physician or physician's designee indicating the person can work in a long-term care facility and indicating any limitations;

(J) Documentation of the employee's tuberculin screening status;

(K) Documentation of what the employee was instructed on during orientation training; and

(L) Reason for termination if the employee was terminated due to abuse or neglect of a resident, residents' rights issues or resident injury. III

(22) Personnel records shall be maintained for at least two (2) years following termination of employment. III

(23) There shall be written documentation maintained in the facility showing actual hours worked by each employee. III

(24) No one individual shall be on duty with responsibility for oversight of residents longer than eighteen (18) hours per day. I/II

(25) Employees who are counted in meeting the minimum staffing ratio and employees who provide direct care to the residents shall be at least sixteen (16) years of age. III

(26) Each facility resident shall be under the medical supervision of a physician licensed to practice in Missouri who has been informed of the facility's emergency medical procedures and is kept informed of treatments or medications prescribed by any other professional lawfully authorized to prescribe medications. III

(27) The facility shall ensure that each resident being admitted or readmitted to the facility receives an admission physical examination by a licensed physician. The facility shall request documentation of the physical examination prior to admission but must have documentation of the physical examination on file no later than ten (10) days after admission. The physical examination shall contain documentation regarding the individual's current medical status and any special orders or procedures to be followed. If the resident is admitted directly from an acute care or another long-term care facility and is accompanied on admission by a report that reflects his or her current medical status, and an admission physical shall not be required. III

(28) Residents under sixteen (16) years of age shall not be admitted. III

(29) The facility may admit or retain an individual for residency in an assisted living facility only if the individual does not require hospitalization or skilled nursing placement as defined in this rule, and only if the facility:

(A) Provides for or coordinates oversight and services to meet the needs, the social and recreational preferences in accordance with the individualized service plan of the resident as documented in a written contract signed by the resident, or legal representative of the resident; II

(B) Has twenty-four (24) hour staff appropriate in numbers and with appropriate skills to provide such services; II

(C) Has a written plan for the protection of all residents in the event of a disaster such as tornado, fire, bomb threat or severe weather, including:

1. Keeping residents in place;
2. Evacuating residents to areas of refuge;
3. Evacuating residents from the building if necessary; or
4. Other methods of protection based on the disaster and the individual building design; I/II

(D) Completes a premove-in screening conducted as required by section 198.073.4 (4), RSMo (CCS HCS SCS SB 616, 93rd General

Assembly, Second Regular Session (2006)). Pre-Screening Tool for Admission to Assisted Living Facilities, (8-06), incorporated by reference, provided by the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570 and which is available to long-term care facilities at www.dhss.mo.gov or by telephone at (573) 526-8548. This rule does not incorporate any subsequent amendments or additions; II

(E) The premove-in screening shall be completed prior to admission with the participation of the prospective resident and be designed to determine if the individual is eligible for admission to the assisted living facility and shall be based on the admission restrictions listed at section (30) of this rule; II

(F) Completes a community based assessment conducted by an appropriately trained and qualified individual as defined in section (4) of this rule:

1. Time frame requirements for assessment shall be:

A. Within five (5) calendar days of admission; II

B. At least semiannually; and II

C. Whenever a significant change has occurred in the resident's condition, which may require a change in services. II

2. Prior to July 1, 2009, the facility shall use form (number), Resident Assessment Form for Assisted Living Facility, (8-06), incorporated by reference, provided by the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570 and which is available to long-term care facilities at www.dhss.mo.gov or by telephone at (573) 526-8548. This rule does not incorporate any subsequent amendments or additions; or II

3. The facility may use another assessment form if approved in advance by the department; and II

4. The department will designate a specific form to be used by all facilities beginning July 1, 2009; II

(G) Develops an individualized service plan (ISP), which is based on information obtained in the community based assessment and in partnership with the resident or legally authorized representative outlining the needs and preferences of the resident and includes daily routines for activities of daily living that accommodate resident preferences, lifelong habits and culture.

1. The ISP shall be reviewed by the resident or his or her legally authorized representative at least annually or when there has been a significant change in the resident's condition which may require a change in service. II

2. The resident or his or her legally authorized representative and the authorized representative of the facility shall review and sign the resident's individualized service plan documenting that the resident and his or her legally authorized representative have reviewed and understand the service plan. II

3. For residents who require licensed hospice care, the ISP shall outline the care requirements and coordination of that care; II

(H) Develops and implements a plan to protect the rights, privacy, and safety of all residents and to protect against the financial exploitation of all residents; and II

(I) Complies with the dementia specific training requirements of subsection 8 of section 660.050, RSMo. II

(30) The facility shall not admit or continue to care for a resident who:

(A) Has exhibited behaviors that present a reasonable likelihood of serious harm to himself or herself or others; I/II

(B) Requires physical restraint as defined in this rule; II

(C) Requires chemical restraint as defined in this rule; II

(D) Requires skilled nursing services as defined in section 198.006 (23), RSMo for which the facility is not licensed or able to provide; II

(E) Requires more than one (1) person to simultaneously physically assist the resident with any activity of daily living, with the exception of bathing and transferring; or II/III

(F) Is bed-bound or similarly immobilized due to a debilitating or chronic condition. II

(31) The requirements of subsections (30)(D), (E) and (F) shall not apply to a resident receiving hospice care, provided the resident, his or her legally authorized representative or designee, or both, and the facility, physician and licensed hospice provider all agree that such program of care is appropriate for the resident. II

(32) Programs and Services Requirements for Residents.

(A) The facility shall designate a staff member to be responsible for leisure activity coordination and for promoting the social model, multiple staff role directing all staff to provide routine care in a manner that emphasizes the opportunity for the resident and the staff member to enjoy a visit rather than simply perform a procedure. II/III

(B) The facility shall make available and implement self-care, productive and leisure activity programs which maximize and encourage the resident's optimal functional ability for residents. The facility shall provide person-centered activities appropriate to the resident's individual needs, preferences, background and culture. Individual or group activity programs may consist of the following:

1. Gross motor activities, such as exercise, dancing, gardening, cooking and other routine tasks;
2. Self-care activities, such as dressing, grooming and personal hygiene;
3. Social and leisure activities, such as games, music and reminiscing;
4. Sensory enhancement activities, such as auditory, olfactory, visual and tactile stimulation;
5. Outdoor activities, such as walking and field trips;
6. Creative arts; or
7. Other social, leisure or therapeutic activities that encourage mental and physical stimulation or enhance the resident's well-being. II/III

(C) Staff shall inform residents in advance of any organized group activity including the time and place of the activity. II/III

(33) Requirements for Facilities Providing Care to Residents Having Mental Illness or Mental Retardation Diagnosis.

(A) Each resident who exhibits mental and psychosocial adjustment difficulty(ies) shall receive appropriate treatment and services to address the resident's needs and behaviors. I/II

(B) If specialized rehabilitative services for mental illness or mental retardation are required to enable a resident to reach and maintain the highest practicable level of physical, mental and psychosocial functioning, the facility shall ensure the required services are provided. II

(C) The facility shall ensure that care giver staff have access to the most recent individual treatment plan or individual habilitation plan provided by the Department of Mental Health (DMH) or designated administrative agent for each resident admitted to the facility on referral by the Department of Mental Health or designated administrative agent. II/III

(34) No facility shall accept any individual with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance unless the facility meets all requirements of section 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) and those standards set forth in 19 CSR 30-86.045. I/II

(35) The facility shall follow appropriate infection control procedures. The administrator or his or her designee shall make a report to the local health authority or the department of the presence or suspected presence of any diseases or findings listed in 19 CSR 20-20.020, sections (1)–(3) according to the specified time frames as follows:

(A) Category I diseases or findings shall be reported to the local health authority or to the department within twenty-four (24) hours of first knowledge or suspicion by telephone, facsimile, or other rapid communication;

(B) Category II diseases or findings shall be reported to the local health authority or the department within three (3) days of first knowledge or suspicion;

(C) Category III—The occurrence of an outbreak or epidemic of any illness, disease or condition which may be of public health concern, including any illness in a food handler that is potentially transmissible through food. This also includes public health threats such as clusters of unusual diseases or manifestations of illness and clusters of unexplained deaths. Such incidents shall be reported to the local authority or to the department by telephone, facsimile, or other rapid communication within twenty-four (24) hours of first knowledge or suspicion. I/II

(36) Protective oversight shall be provided twenty-four (24) hours a day. For residents departing the premises on voluntary leave, the facility shall have, at a minimum, a procedure to inquire of the resident or resident's guardian of the resident's departure, of the resident's estimated length of absence from the facility, and of the resident's whereabouts while on voluntary leave. I/II

(37) Residents shall receive proper care to meet their needs. I/II

(38) In case of behaviors which may potentially pose a threat of harm, serious illness, significant change in condition, injury or death, staff shall take appropriate action and shall promptly attempt to contact the person listed in the resident's record as the legally authorized representative, designee or placement authority. The facility shall contact the attending physician or designee and notify the local coroner or medical examiner immediately upon the death of any resident of the facility prior to transferring the deceased resident to a funeral home. I/II

(39) The facility shall encourage and assist each resident based on his or her individual preferences and needs to be clean and free of body and mouth odor. II

(40) If the resident brings unsealed medications to the facility, the medications shall not be used unless a pharmacist, physician or nurse examines, identifies and determines the contents to be suitable for use. The person performing the identification shall document his or her review. II/III

(41) Self-control of prescription medication by a resident may be allowed only if approved in writing by the resident's physician and included in the resident's individualized service plan. A resident may be permitted to control the storage and use of nonprescription medication unless there is a physician's written order or facility policy to the contrary. Written approval for self-control of prescription medication shall be rewritten as needed but at least annually and after any period of hospitalization. II/III

(42) All medication shall be safely stored at proper temperature and shall be kept in a secured location behind at least one (1) locked door or cabinet. Medication shall be accessible only to persons authorized to administer medications. II/III

(A) If access is controlled by the resident, a secured location shall mean in a locked container, a locked drawer in a bedside table or dresser or in a resident's private room if locked in his or her absence, although this does not preclude access by a responsible employee of the facility.

(B) Schedule II controlled substances shall be stored in locked compartments separate from non-controlled medications, except that single doses of Schedule II controlled substances may be controlled by a resident in compliance with the requirements for self-control of medication of this rule.

(C) Medication that is not in current use and is not destroyed shall be stored separately from medication that is in current use. II/III

(43) All prescription medications shall be supplied as individual prescriptions except where an emergency medication supply is allowed. All medications, including over-the-counter medications, shall be packaged and labeled in accordance with applicable professional pharmacy standards, state and federal drug laws. Labeling shall include accessory and cautionary instructions as well as the expiration date, when applicable, and the name of the medication as specified in the physician's order. Medication labels shall not be altered by facility staff and medications shall not be repackaged by facility staff except as allowed by section (45) of this rule. Over-the-counter medications for individual residents shall be labeled with at least the resident's name. II/III

(44) Controlled substances and other prescription and non-prescription medications for administration when a resident temporarily leaves a facility shall be provided as follows:

(A) Separate containers of medications for the leave period may be prepared by the pharmacy. The facility shall have a policy and procedure for families to provide adequate advance notice so that medications can be obtained from the pharmacy.

(B) Prescription medication cards or other multiple-dose prescription containers currently in use in the facility may be provided by any authorized facility medication staff member if the containers are labeled by the pharmacy with complete pharmacy prescription labeling for use. Original manufacturer containers of non-prescription medications, along with instructions for administration, may be provided by any authorized facility medication staff member.

(C) When medications are supplied by the pharmacy in customized patient medication packages that allow separation of individual dose containers, the required number of containers may be provided by any authorized facility medication staff member. The individual dose containers shall be placed in an outer container that is labeled with the name and address of the facility and the date.

(D) When multiple doses of a medication are required and it is not reasonably possible to obtain prescription medication labeled by the pharmacy, and it is not appropriate to send a container of medication currently in use in the facility, up to a twenty-four (24)-hour supply of each prescription or non-prescription medication may be provided by a licensed nurse in United States Pharmacopeia (USP) approved containers labeled with the facility name and address, resident's name, medication name and strength, quantity, instructions for use, date, initials of individual providing, and other appropriate information.

(E) When no more than a single dose of a medication is required, any authorized facility medication staff member may prepare the dose as for in-facility administration in a USP approved container labeled with the facility name and address, resident's name, medication name and strength, quantity, instructions for use, date, initials of person providing, and other appropriate information.

(F) The facility may have a policy that limits the quantity of medication sent with a resident without prior approval of the prescriber.

(G) Returned containers shall be identified as having been sent with the resident, and shall not later be returned to the pharmacy for reuse.

(H) The facility shall maintain accurate records of medications provided to and returned by the resident. II/III

(45) Upon discharge or transfer of a resident, the facility shall release prescription medications, including controlled substances, held by the facility for the resident when the physician writes an order for each medication to be released. Medications shall be labeled by the pharmacy with current instructions for use. Prescription medication cards or other containers may be released if the containers are labeled by the pharmacy with complete pharmacy prescription labeling. II/III

(46) Injections shall be administered only by a physician or licensed nurse, except that insulin injections may also be administered by a

certified medication technician or level I medication aide who has successfully completed the state-approved course for insulin administration, taught by a department-approved instructor. Anyone trained prior to December 31, 1990, who completed the state-approved insulin administration course taught by an approved instructor shall be considered qualified to administer insulin in an assisted living facility. A resident who requires insulin, may administer his or her own insulin if approved in writing by the resident's physician and trained to do so by a licensed nurse or physician. The facility shall monitor the resident's condition and ability to continue self-administration. I/II

(47) The administrator shall develop and implement a safe and effective system of medication control and use, which assures that all residents' medications are administered by personnel at least eighteen (18) years of age, in accordance with physicians' instructions using acceptable nursing techniques. The facility shall employ a licensed nurse eight (8) hours per week for every thirty (30) residents to monitor each resident's condition and medication. Administration of medication shall mean delivering to a resident his or her prescription medication either in the original pharmacy container, or for internal medication, removing an individual dose from the pharmacy container and placing it in a small cup container or liquid medium for the resident to remove from the container and self-administer. External prescription medication may be applied by facility personnel if the resident is unable to do so and the resident's physician so authorizes. All individuals who administer medication shall be trained in medication administration and, if not a physician or a licensed nurse, shall be a certified medication technician or level I medication aide. I/II

(48) Medication Orders.

(A) No medication, treatment or diet shall be administered without an order from an individual lawfully authorized to prescribe such and the order shall be followed. II/III

(B) Physician's written and signed orders shall include: name of medication, dosage, frequency and route of administration and the orders shall be renewed at least every three (3) months. Computer generated signatures may be used if safeguards are in place to prevent their misuse. Computer identification codes shall be accessible to and used by only the individuals whose signatures they represent. Orders that include optional doses or include *pro re nata* (PRN) administration frequencies shall specify a maximum frequency and the reason for administration. II/III

(C) Telephone and other verbal orders shall be received only by a licensed nurse, certified medication technician, level I medication aide or pharmacist, and shall be immediately reduced to writing and signed by that individual. A certified medication technician or level I medication aide may receive a telephone or other verbal order only for a medication or treatment that the technician or level I medication aide is authorized to administer. If a telephone or other verbal order is given to a medication technician, an initial dosage shall not be administered until the order has been reviewed by telephone, facsimile or in person by a licensed nurse or pharmacist. The review shall be documented by the reviewer co-signing the telephone or other verbal order. II

(D) The review shall be documented by the licensed nurse's or pharmacist's signature within seven (7) days. III

(E) The physician shall sign all telephone and other verbal orders within seven (7) days. III

(F) Influenza and pneumococcal polysaccharide immunizations may be administered per physician-approved facility policy after assessment for contraindications—

1. The facility shall develop a policy that provides recommendations and assessment parameters for the administration of such immunizations. The policy shall be approved by the facility medical director for facilities having a medical director, or by each resident's attending physician for facilities that do not have a medical director, and shall include the requirements to:

A. Provide education regarding the potential benefits and side effects of the immunization to each resident or the resident's designee or legally authorized representative; II/III

B. Offer the immunization to the resident or the resident's designee or legally authorized representative when it is medically indicated or the resident has been immunized as recommended by the policy; II/III

C. Provide the opportunity to refuse the immunization; and II/III

D. Perform an assessment for contraindications; II/III

2. The assessment for contraindications and documentation of the education and opportunity to refuse the immunization shall be dated and signed by the nurse performing the assessment and placed in the medical record; or

3. The facility shall with access screening and immunization through outside sources with the approval of each resident's physician, such as county or city health departments. II/III

(G) The administration of medication shall be recorded on a medication sheet or directly in the resident's record and, if recorded on a medication sheet, shall be made part of the resident's record. The administration shall be recorded by the same individual who prepares the medication and administers it. II/III

(49) The facility may keep an emergency medication supply if approved by a pharmacist or physician. Storage and use of medications in the emergency medication supply shall assure accountability. When the emergency medication supply contains controlled substances, the facility shall be registered with the Bureau of Narcotics and Dangerous Drugs (BNDD) and shall be in compliance with 19 CSR 30-1.052 and other applicable state and federal controlled substance laws and regulations. II/III

(50) Automated dispensing systems may be controlled by the facility or may be controlled on-site or remotely by a pharmacy.

(A) Automated dispensing systems may be used for an emergency medication supply.

(B) Automated dispensing systems that are controlled by a pharmacy may be used for continuing doses of controlled substance and non-controlled substance medications. When continuing doses are administered from an automated dispensing system that is controlled by a pharmacy, a pharmacist shall review and approve each new medication order prior to releasing the medication from the system. The pharmacy and the facility may have a policy and procedure to allow the release of initial doses of approved medications when a pharmacist is not available in lieu of a separate emergency medication supply. When initial doses are used when a pharmacist is not available, a pharmacist shall review and approve the order within twenty-four (24) hours of administration of the first dose.

(C) Automated dispensing systems shall be used in compliance with state and federal laws and regulations. When an automated dispensing system controlled by the facility contains controlled substances for an emergency medication supply, the facility shall be registered with the BNDD. When an automated dispensing system is controlled by a pharmacy, the facility shall use it in compliance with 20 CSR 2220-2.900. II/III

(51) Stock supplies of nonprescription medication may be kept when specific medications are approved in writing by a consulting physician, a registered nurse or a pharmacist. II/III

(52) Records shall be maintained upon receipt and disposition of all controlled substances and shall be maintained separately from other records, for two (2) years.

(A) Inventories of controlled substances shall be reconciled as follows:

1. Controlled Substance Schedule II medications shall be reconciled each shift; and II

2. Controlled Substance Schedule III-V medications shall be reconciled at least weekly and as needed to ensure accountability. II

(B) Inventories of controlled substances shall be reconciled by the following:

1. Two (2) medication personnel, one of whom is a licensed nurse; or

2. Two (2) medication personnel, who are certified medication technicians or level I medication aides, when a licensed nurse is not available. II

(C) Receipt records shall include the date, source of supply, resident name and prescription number when applicable, medication name and strength, quantity and signature of the supplier and receiver. Administration records shall include the date, time, resident name, medication name, dose administered and the initials of the individual administering. The signature and initials of each medication staff documenting on the medication administration record must be signed in the signature area of the medication record. II

(D) When self-control of medication is approved a record shall be made of all controlled substances transferred to and administered from the resident's room. Inventory reconciliation shall include controlled substances transferred to the resident's room. II

(53) Documentation of waste of controlled substances at the time of administration shall include the reason for the waste and the signature of another facility medication staff member who witnesses the waste. If a second medication staff member is not available at the time of administration, the controlled substance shall be properly labeled, clearly identified as unusable, stored in a locked area, and destroyed as soon as a medication staff member is available to witness the waste. When a second medication staff member is not available and the controlled substance is contaminated by patient body fluids, the controlled substance shall be destroyed immediately and the circumstances documented. II/III

(54) At least every other month, a pharmacist or registered nurse shall review the controlled substance record keeping including reconciling the inventories of controlled substances. This shall be done at the time of the drug regimen review of each resident. All discrepancies in controlled substance records shall be reported to the administrator for review and investigation. The theft or loss of controlled substances shall be reported as follows:

(A) The facility shall notify the department's Section for Long Term Care (SLTC) and other appropriate authorities of any theft or significant loss of any controlled substance medication written as an individual prescription for a specific resident upon the discovery of the theft or loss. The facility shall consider at least the following factors in determining if a loss is significant:

1. The actual quantity lost in relation to the total quantity;

2. The specific controlled substance lost;

3. Whether the loss can be associated with access by specific individuals;

4. Whether there is a pattern of losses, and if the losses appear to be random or not;

5. Whether the controlled substance is a likely candidate for diversion; and

6. Local trends and other indicators of diversion potential;

(B) If an insignificant amount of such controlled substance is lost during lawful activities, which includes but are not limited to receiving, record keeping, access auditing, administration, destruction and returning to the pharmacy, a description of the occurrence shall be documented in writing and maintained with the facility's controlled substance records. The documentation shall include the reason for determining that the loss was insignificant; and

(C) When the facility is registered with the BNDD, the facility shall report to or document for the BNDD any loss of any stock supply controlled substance in compliance with 19 CSR 30-1.034. II/III

(55) A pharmacist or registered nurse shall review the medication regimen of each resident. This shall be done at least every other month. The review shall be performed in the facility and shall

include, but shall not be limited to, indication for use, dose, possible medication interactions and medication/food interactions, contraindications, adverse reactions and a review of the medication system utilized by the facility. Irregularities and concerns shall be reported in writing to the resident's physician and to the administrator/manager. If after thirty (30) days, there is no action taken by a resident's physician and significant concerns continue regarding a resident's or residents' medication order(s), the administrator shall contact or recontact the physician to determine if he or she received the information and if there are any new instructions. II/III

(56) All medication errors and adverse reactions shall be promptly documented and reported to the administrator and the resident's physician. If the pharmacy made a dispensing error, it shall also be reported to the issuing pharmacy. II/III

(57) Medications that are not in current use shall be disposed of as follows:

(A) Single doses of contaminated, refused, or otherwise any authorized medication staff member may destroy unusable non-controlled substance medications at the time of administration. Single doses of unusable controlled substance medications may be destroyed according to section (53) of this rule;

(B) Discontinued medications may be retained up to one hundred twenty (120) days prior to other disposition if there is reason to believe, based on clinical assessment of the resident, that the medication might be reordered;

(C) Medications may be released to the resident or family upon discharge according to section (44) of this rule;

(D) After a resident has expired, medications, except for controlled substances, may be released to the resident's legal representative upon written request of the legal representative that includes the name of the medication and the reason for the request;

(E) Medications may be returned to the pharmacy that dispensed the medications pursuant to 20 CSR 2220-3.040 or returned pursuant to the Prescription Drug Repository Program, 19 CSR 20-50.020. All other medications, including all controlled substances and all expired or otherwise unusable medications, shall be destroyed within thirty (30) days as follows:

1. Medications shall be destroyed within the facility by a pharmacist and a licensed nurse or by two (2) licensed nurses or when two (2) licensed nurses are not available on staff by two (2) individuals who have authority to administer medications, one (1) of whom shall be a licensed nurse or a pharmacist; and

2. A record of medication destroyed shall be maintained and shall include the resident's name, date, medication name and strength, quantity, prescription number, and signatures of the individuals destroying the medications; and

(F) A record of medication released or returned to the pharmacy shall be maintained and shall include the resident's name, date, medication name and strength, quantity, prescription number, and signatures of the individuals releasing and receiving the medications. II/III

(58) Residents experiencing short periods of incapacity due to illness or injury or recuperation from surgery may be allowed to remain or be readmitted from a hospital if the period of incapacity does not exceed forty-five (45) days and written approval of a physician is obtained for the resident to remain in or be readmitted to the facility. I/II

(59) The facility shall maintain a record in the facility for each resident, which shall include the following:

(A) Admission information including the resident's name; admission date; confidentiality number; previous address; birth date; sex; marital status; Social Security number; Medicare and Medicaid numbers (if applicable); name, address and telephone number of the resident's physician and alternate; diagnosis, name, address and tele-

phone number of the resident's legally authorized representative or designee to be notified in case of emergency; and preferred dentist, pharmacist and funeral director; III

(B) A review monthly or more frequently, if indicated, of the resident's general condition and needs; a monthly review of medication consumption of any resident controlling his or her own medication, noting if prescription medications are being used in appropriate quantities; a daily record of administration of medication; a logging of the medication regimen review process; a monthly weight; a record of each referral of a resident for services from an outside service; and a record of any resident incidents including behaviors that pose or have posed a threat of harm to self or others and accidents that potentially could result in injury or did result in injuries involving the resident; and

(C) Any physician's orders. All orders shall be signed and dated. III

(60) A record of the resident census shall be retained in the facility. III

(61) Resident records shall be maintained by the operator for at least five (5) years after a resident leaves the facility or after the resident reaches the age of twenty-one (21), whichever is longer and must include reason for discharge or transfer from the facility and cause of death, as applicable. III

(62) Staffing Requirements.

(A) The facility shall have an adequate number and type of personnel for the proper care of residents, the residents' social well being, protective oversight of residents and upkeep of the facility. At a minimum, the staffing pattern shall be one (1) staff person for up to fifteen (15) residents or major fraction of fifteen (15), except during the hours of 10:00 p.m. through 6:00 a.m. when the staffing pattern shall be a minimum of one (1) person for every twenty (20) residents or major fraction of twenty (20). Meeting these minimal staffing requirements may not meet the needs of residents as outlined in the residents' assessments and individualized service plans. I/II

(B) All on-duty staff of the facility shall, at all times, be awake, dressed in on-duty work attire, and prepared to assist residents to meet social, recreational and care needs in accordance with each resident's individualized service plan. I/II

(C) In a facility of more than sixty (60) residents, the administrator shall not be counted when determining the personnel required. II

(D) At a minimum there shall be a licensed nurse employed by the facility to work at least the following hours per week:

3-30 Residents—8 hours;

31-60 Residents—16 hours;

61-90 Residents—24 hours; and

91 or more residents—40 hours. II

(E) This licensed nurse shall be available to assess residents for pain and significant and acute changes in condition. The nurse's duties shall include, but shall not be limited to, review of residents' records, medications and special diets or other orders, review of each resident's adjustment to the facility and observation of each individual resident's general physical, psychosocial and mental status. The nurse shall inform the administrator of any problems noted and these shall be brought to the attention of the resident's physician and legally authorized representative or designee. II/III

(63) Prior to or on the first day that a new employee works in the facility he or she shall receive orientation of at least two (2) hours appropriate to his or her job function. This shall include at least the following:

(A) Job responsibilities;

(B) Emergency response procedures;

(C) Infection control and handwashing procedures and requirements;

(D) Confidentiality of resident information;

- (E) Preservation of resident dignity;
- (F) Information regarding what constitutes abuse/neglect and how to report abuse/neglect to the department (1-800-392-0210);
- (G) Information regarding the Employee Disqualification List;
- (H) Instruction regarding the rights of residents and protection of property;
- (I) Instruction regarding working with residents with mental illness; and
- (J) Instruction regarding person-centered care and the concept of a social model of care, and techniques that are effective in enhancing resident choice and control over his or her own environment. II/III

(64) In addition to the orientation training required in section (65) of this rule any facility that provides care to any resident having Alzheimer's disease or related dementia shall provide orientation training regarding mentally confused residents such as those with Alzheimer's disease and related dementias as follows:

(A) For employees providing direct care to such persons, the orientation training shall include at least three (3) hours of training including at a minimum an overview of mentally confused residents such as those having Alzheimer's disease and related dementias, communicating with persons with dementia, behavior management, promoting independence in activities of daily living, techniques for creating a safe, secure and socially oriented environment, provision of structure, stability and a sense of routine for residents based on their needs, and understanding and dealing with family issues; and II/III

(B) For other employees who do not provide direct care for, but may have daily contact with, such persons, the orientation training shall include at least one (1) hour of training including at a minimum an overview of mentally confused residents such as those having dementias as well as communicating with persons with dementia. II/III

(65) All in-service or orientation training relating to the special needs, care and safety of residents with Alzheimer's disease and other dementia shall be conducted, presented or provided by an individual who is qualified by education, experience or knowledge in the care of individuals with Alzheimer's disease or other dementia. II/III

(66) Requirements for training related to safely transferring residents.

(A) The facility shall ensure that all staff responsible for transferring residents are appropriately trained to transfer residents safely. A licensed nurse who provides the transfer training shall observe the caregiver's skills when checking competency in completing safe transfers, shall document the date(s) of training and competency and shall sign and maintain training documentation. Initial training shall include a minimum of two (2) classroom instruction hours in addition to the on-the-job training related to safely transferring residents who need assistance with transfers.

(B) The facility shall ensure that a minimum of one (1) hour of transfer training is provided by a licensed nurse annually regarding safe transfer skills. II/III

AUTHORITY: sections 198.076, RSMo 2000 and 198.005, 198.006 and 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)). Original rule filed Aug. 23, 2006.

PUBLIC COST: This proposed rule will cost participating nursing home district facilities formerly licensed as residential care facilities II a total annual cost in the aggregate of \$1,356,475. In addition, DHSS estimates a total annual cost in the aggregate of four hundred ninety-seven thousand, seven hundred fifty dollars (\$497,750) plus a total one-time cost in the aggregate of eighty thousand thirty-five dollars (\$80,035).

PRIVATE COST: This proposed rule will cost facilities formerly licensed as residential care facilities II a total annual cost in the aggregate of \$31,188,513. In addition, this proposed rule will cost facilities who have received residential care facilities II certificate of need approval a total annual cost in the aggregate of \$1,711,537. There will be an unknown number of newly constructed assisted living facilities with an indeterminate cost.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director, Division of Regulation and Licensure, Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC COST**

I. RULE NUMBER

Rule Number and Name:	19 CSR 30-86.047 Administrative, Personnel and Resident Care Requirements for Assisted Living Facilities
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
11 Facilities formerly Licensed as Residential Care Facility IIs Operated by Nursing Home Districts	Total Yearly Cost in the Aggregate \$1,356,475**
Missouri Department of Health and Senior Services	Total Yearly Cost in the Aggregate \$497,750 Total One-Time Cost in the Aggregate \$80,035

III. and IV. WORKSHEET AND ASSUMPTIONS

CCS HCS SCS SB 616, (93rd General Assembly, Second Regular Session (2006)) provides that long-term care facilities licensed prior to August 28, 2006 as residential care facility II will be licensed as assisted living facilities but have the option of continuing to meet state laws and regulations in effect on August 27, 2006 for residential care facility IIs (for a period of time) or meeting additional requirements relating to assisted living facilities. The proposed rule 19 CSR 30-86.047 provides the additional requirements that assisted living facilities may choose to meet in lieu of continuing to meet regulations for residential care facility IIs in effect on August 27, 2006. The proposed rule includes standards: (1) that were applicable to residential care facility IIs licensed prior to August 28, 2006 that will continue to be applicable to all assisted living facilities and (2) that are new requirements for assisted living facilities. Some of these new provisions are specifically required by SB 616 as described below.

According to DHSS licensure records, there are currently 15 residential care facility IIs operated by nursing home districts. Based on comments received from the long term care industry, DHSS estimates 70% of these facilities will choose to comply with assisted living facility standards (365 total facilities x .70 percentage of facilities choosing to comply with this proposed rule). All costs are based on this percentage (11 facilities). These 11 facilities represent 3% of the total number of licensed residential care facility IIs (11 facilities / 365 total facilities).

Administrator Costs – This proposed rule requires facility administrators to devote sufficient time and attention to the management of the facility. They are not required to be employed full time. This provision is the same as in existing rule as of August 27, 2006 (19 CSR 30-86.042). The number of hours of employment will depend on the size of the facility

and the acuity level of residents. For purposes of this calculation, DHSS divided full-time employment (40 hours) by two. According to a study of administrator salaries conducted in 2000 by Keller & Company, LLC, the average salary of a full-time licensed nursing home administrator was \$48,324. To reach a current salary of \$53,156, this amount has been increased by 10% to account for increases in salary the past six years ($\$48,324 \times 1.1 = \$53,156$). DHSS has added an additional amount for fringe benefits which is based on current fringe benefit rates for state employees.* DHSS estimates yearly costs for assisted living facilities formerly licensed as residential care facility IIs in the aggregate to be \$415,353 ($\$53,156 \times .4207$ fringe rate) + ($\$53,156$) / (2 for half-time employment) x (11 facilities). This amount may be reduced by an indeterminate amount in that this proposed rule allows administrators to serve as the administrator in up to five facilities within a thirty mile radius as long as the total bed capacity of those facilities is not greater than 100. Current rule under 19 CSR 30-86.042 allows administrators to serve as the administrator in up to four facilities within a thirty mile radius as long as the total bed capacity of those facilities is not greater than 100.

Drug Regimen and Controlled Substance Review – This proposed rule requires assisted living facilities to contract with either a registered nurse or pharmacist to conduct controlled substance record reviews and resident drug regimen reviews every other month. Based on Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised October 1, 2005) the average annual market salary for a registered nurse I is \$35,076. DHSS estimates it will take one eight-hour workday to complete the reviews. DHSS estimates the total yearly cost for assisted living facilities in the aggregate to be \$12,650 ($\$35,076 \times .4207$ fringe rate) + ($\$35,076$) / (2080 hours in a work year) x (8 hours) x (6 times per year) x (11 facilities). Note: current regulations at 19 CSR 30-86.042 for residential care facility IIs require a registered nurse or pharmacist to conduct a drug regimen review of each resident every other month. DHSS estimates this review took one seven-hour workday to complete. DHSS estimates current yearly costs for existing residential care facility IIs to perform drug regimen reviews to be \$11,069 ($\$35,076 \times .4207$ fringe rate) + ($\$35,076$) / (2080 hours in a work year) x (7 hours) x (6 times per year) x (11 facilities). The proposed rule's addition of a requirement for controlled substance reviews adds one hour to the current estimated time for drug regimen reviews. DHSS estimates the actual new yearly costs for assisted living facilities that were licensed as residential care facility IIs to conduct controlled substance record reviews as well as resident drug regimen reviews in the aggregate to be \$1,581 ($\$12,650 - \$11,069$).

Staffing – SB 616 (Section 198.073(4), RSMo) requires assisted living facilities to have twenty-four hour staff appropriate in numbers and with appropriate skills to provide services to residents. The proposed rule states assisted living facilities shall have an adequate number and type of personnel for the proper care of residents, the residents' social well being, protective oversight of residents and upkeep of the facility. The remaining requirements in this proposed rule other than training relate to tasks of staff employed by an assisted living facility. Assisted living facilities must have an employee with the qualifications to administer medications on duty at all times, therefore DHSS' estimate is based on the salary of a Level 1 Medication Aide. The proposed rule does not dictate the qualifications for the remaining staff, therefore assisted living facilities may use the following formula revised with their own

figures to determine the cost to their facility. Based on staffing ratios in the proposed rule, assisted living facilities will be required to employ 28 employees between the hours of 6 a.m. to 10 p.m. (2 eight-hour shifts) $(10,194 \text{ current census in residential care facility IIs according to DHSS monthly reports for June, 2006} \times .03 \text{ percentage of facilities choosing to comply}) / (22^{***}) \times (2 \text{ shifts between hours of 6 a.m. and 10 p.m.})$. In addition, assisted living facilities will be required to employ 10 employees between the hours of 10:00 p.m. and 6:00 a.m. (1 eight-hour shift) $(10,194 \text{ current census in residential care facility IIs according to DHSS monthly reports for June, 2006} \times .03 \text{ percentage of facilities choosing to comply}) / (30^{***}) \times (1 \text{ shift})$. According to a study of level I medication aide salaries conducted in 2000 by Keller & Company, LLC, the average salary of a level I medication aide was \$14,289. To reach a current salary of \$15,718, this number was increased by 10% to account for increases in salary the past six years $(\$14,289 \times 1.1 = \$15,718)$. DHSS estimates the total yearly cost for assisted living facilities in the aggregate to be DHSS estimates the total yearly cost for assisted living facilities in the aggregate to be \$848,561 $(\$15,718 \times .4207 \text{ fringe rate}) + (\$15,718) \times (38 \text{ total employees})$. DHSS estimates that current requirements under 19 CSR 30-86.042 require residential care facility IIs to employ 32 employees (day shift = $10,194 \text{ current census in residential care facility IIs according to DHSS monthly reports for June, 2006} \times .03 \text{ percentage of facilities choosing to comply}) / (22^{***})$ + (evening shift = $10,194 \text{ current census in residential care facility IIs according to DHSS monthly reports for June, 2006} \times .03 \text{ percentage of facilities choosing to comply}) / (30^{***})$ + (night shift = $10,194 \text{ current census in residential care facility IIs according to DHSS monthly reports for June, 2006} \times .03 \text{ percentage of facilities choosing to comply}) / (37^{***})$). DHSS estimates current yearly costs for residential care facility IIs in the aggregate to be \$714,578 $(\$15,718 \times .4207 \text{ fringe rate}) + (\$15,718) \times (32 \text{ total employees})$. DHSS estimates the actual new yearly costs for assisted living facilities formerly licensed as residential care facility IIs in the aggregate to be \$133,983 $(\$848,561 - \$714,578)$.

In addition to the above requirements, this proposed rule requires assisted living facilities to employ a licensed nurse a minimum of eight hours per week for every 30 residents. Licensed nurse hours will increase as the facility census increases. DHSS estimates 10 licensed nurses will be required to work eight hours per week $(10,194 \text{ current census in residential care facility IIs according to DHSS monthly reports} \times .03 \text{ percentage of facilities choosing to comply}) / (30^{****})$ in assisted living facilities. Based on the Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised October 1, 2005) the average annual market salary for a licensed practical nurse I is \$24,984. DHSS estimates the total yearly cost to assisted living facilities in the aggregate to be \$70,984 $(\$24,982 \times .4207 \text{ fringe rate}) + (\$24,982) / (2080 \text{ hours in a work year}) \times (8 \text{ hours}) \times (52 \text{ weeks per year}) \times (10 \text{ LPNs})$. Current requirements under 19 CSR 30-86.042 require residential care facility IIs to employ 7 licensed nurses $(10,194 \text{ current census in residential care facility IIs according to DHSS monthly reports} \times .03 \text{ percentage of facilities choosing to comply}) / (45^{****})$. DHSS estimates current yearly costs for residential care facility IIs in the aggregate to be \$49,689 $(\$24,982 \times .4207 \text{ fringe rate}) + (\$24,982) / (2080 \text{ hours in a work year}) \times (8 \text{ hours}) \times (52 \text{ weeks per year}) \times (7 \text{ LPNs})$. DHSS estimates the actual new yearly costs for assisted living facilities formerly licensed as residential care facility IIs in the aggregate to be \$21,295 $(\$70,984 - \$49,689)$.

Staff Training – This proposed rule requires assisted living facilities that provide care to residents with Alzheimer’s disease or related dementia to provide 3 hours of dementia specific training to staff providing the care. According to the Alzheimer’s Association, the cost for such a class is approximately \$225. Because of staff turnover, DHSS estimates each assisted living facility will need three training sessions per year. DHSS estimates the total yearly cost for assisted living facilities formerly licensed as residential care facility IIs in the aggregate to be \$7,425 (\$225 cost per training x 3 training sessions per year) x (11 facilities).

In addition to the above requirements, this proposed rule requires assisted living facilities to provide two hours of training by a licensed nurse for staff responsible for transferring residents and an additional hour of training every year after the initial training. Based on the Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised October 1, 2005) the average annual market salary for a licensed practical nurse I is \$24,984. Because of staff turnover, DHSS estimates each assisted living facility will need three two-hour training sessions per year and two one-hour training session per year. DHSS estimates the yearly cost for assisted living facilities formerly licensed as residential care facility IIs in the aggregate to be \$1,502 ($\$24,982 \times .4207$ fringe rate) + ($\$24,982 / (2080$ hours in a work year) x (8 hours of training) x (11 facilities).

Requirement	Total Cost in the Aggregate	Current Cost in the Aggregate	Actual True New Cost in the Aggregate
Administrator	\$415,353	\$415,353	\$0
Drug Regimen and Controlled Substance Review	\$12,650	\$11,069	\$1,581
Staffing	\$919,545	\$764,267	\$155,278
Staff Training	\$8,927	\$	\$8,927
TOTAL	\$1,356,475	\$1,190,689	\$165,786

DHSS Costs - DHSS estimates a need of ten additional inspection staff to focus efforts on regulation of these facilities. This licensure level contains new requirements, which will require inspectors to be trained in these areas and to inspect for standards not previously imposed on facilities. DHSS estimates the total yearly cost to the Department to be \$497,750 for personal service and expense and equipment purchases. In addition, DHSS estimates a one time cost of \$80,035 for equipment and supplies associated with the ten new positions.

*The state of Missouri fringe benefit rate for fiscal year 2007 is 42.07 percent which includes retirement contribution, medical insurance, basic life insurance, long-term disability and Missouri deferred compensation. This rate was used throughout the fiscal note. Facilities can use this formula revised with their own figures to determine the cost to their facility.

** At an August 7, 2006 public meeting, various members of the long term care industry verbally reported various estimated costs for specific requirements, but did not elaborate how they reached these conclusions.

***** Number of residents requiring one staff person.**

****** Number of residents requiring one licensed nurse.**

FISCAL NOTE PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	19 CSR 30-86.047 Administrative, Personnel and Resident Care Requirements for Assisted Living Facilities
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
244	Facilities formerly Licensed as Residential Care Facility II	Total Yearly Cost in the Aggregate \$31,188,513**
13 facilities who have received Residential Care Facility II CON approval plus an unknown number of new Assisted Living Facilities that will be constructed or have major remodeling	Newly Constructed Assisted Living Facilities	Total Yearly Cost in the Aggregate \$1,711,537 for the 13 known plus an indeterminate amount for the unknown

III. and IV. WORKSHEET AND ASSUMPTIONS

CCS HCS SCS SB 616, (93rd General Assembly, Second Regular Session (2006)) provides that long-term care facilities licensed prior to August 28, 2006 as residential care facility II will be licensed as assisted living facilities but have the option of continuing to meet state laws and regulations in effect on August 27, 2006 for residential care facility IIs (for a period of time) or meeting additional requirements relating to assisted living facilities. The proposed rule 19 CSR 30-86.047 provides the additional requirements that assisted living facilities may choose to meet in lieu of continuing to meet regulations for residential care facility IIs in effect on August 27, 2006. The proposed rule includes standards: (1) that were applicable to residential care facility IIs licensed prior to August 28, 2006 that will continue to be applicable to all assisted living facilities and (2) that are new requirements for assisted living facilities. Some of these new provisions are specifically required by SB 616 as described below.

A. There are currently 365 licensed residential care facility IIs. Fifteen of these residential care facility IIs are public nursing home districts. The fiscal impact to these facilities is described in the public entity fiscal note for this proposed rule. Based on comments received from the long term care industry, DHSS estimates 70% of the 365 total existing residential care facility IIs will choose to comply with assisted living facility standards ($365 \times .70 = 255$). This number is reduced by 11 facilities to account for existing residential care facility IIs operated by nursing home districts (15 residential care facility IIs operated by nursing home districts $\times .70$ percentage of residential care facility IIs operated by nursing home

districts choosing to comply with this rule). All costs for this proposed rule are based on this number (244 facilities).

Administrator Costs – This proposed rule requires facility administrators to devote sufficient time and attention to the management of the facility. They are not required to be employed full time. This provision is the same as in existing rule as of August 27, 2006 (19 CSR 30-86.042). The number of hours of employment will depend on the size of the facility and the acuity level of residents. For purposes of this calculation, DHSS divided full-time employment (40 hours) by two. According to a study of administrator salaries conducted in 2000 by Keller & Company, LLC, the average salary of a full-time licensed nursing home administrator was \$48,324. To reach a current salary of \$53,156, this amount has been increased by 10% to account for increases in salary the past six years ($\$48,324 \times 1.1 = \$53,156$). DHSS has added an additional amount for fringe benefits which is based on current fringe benefit rates for state employees.* DHSS estimates yearly costs for assisted living facilities formerly licensed as residential care facility IIs in the aggregate to be \$9,213,285 ($\$53,156 \times .4207$ fringe rate) + ($\$53,156$) / 2 for half-time employment) x (244 facilities). This amount may be reduced by an indeterminate amount in that this proposed rule allows administrators to serve as the administrator in up to five facilities within a thirty mile radius as long as the total bed capacity of those facilities is not greater than 100. Current rule under 19 CSR 30-86.042 allows administrators to serve as the administrator in up to four facilities within a thirty mile radius as long as the total bed capacity of those facilities is not greater than 100.

Drug Regimen and Controlled Substance Reviews – This proposed rule requires assisted living facilities to contract with either a registered nurse or pharmacist to conduct controlled substance record reviews and resident drug regimen reviews every other month. Based on Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised October 1, 2005) the average annual market salary for a registered nurse I is \$35,076. DHSS estimates it will take one eight-hour workday to complete the reviews. DHSS estimates the total yearly cost for assisted living facilities in the aggregate to be \$280,595 ($\$35,076 \times .4207$ fringe rate) + ($\$35,076$) / (2080 hours in a work year) x (8 hours) x (6 times per year) x (244 facilities). Note: current regulations at 19 CSR 30-86.042 for residential care facility IIs require a registered nurse or pharmacist to conduct a drug regimen review of each resident every other month. DHSS estimates this review took one seven-hour workday to complete. DHSS estimates current yearly costs for existing residential care facility IIs to perform drug regimen reviews to be \$245,521 ($\$35,076 \times .4207$ fringe rate) + ($\$35,076$) / (2080 hours in a work year) x (7 hours) x (6 times per year) x (244 facilities). The proposed rule's addition of a requirement for controlled substance reviews adds one hour to the current estimated time for drug regimen reviews. DHSS estimates the actual new yearly costs for assisted living facilities that were licensed as residential care facility IIs to conduct controlled substance record reviews as well as resident drug regimen reviews in the aggregate to be \$35,074 ($\$280,595 - \$245,521$).

Staffing – SB 616 (Section 198.073(4), RSMo) requires assisted living facilities to have twenty-four hour staff appropriate in numbers and with appropriate skills to provide services to residents. The proposed rule states assisted living facilities shall have an adequate number

an type of personnel for the proper care of residents, the residents' social well being, protective oversight of residents and upkeep of the facility. The remaining requirements in this proposed rule other than training relate to tasks of staff employed by an assisted living facility. Assisted living facilities must have an employee with the qualifications to administer medications on duty at all times, therefore DHSS' estimate is based on the salary of a Level 1 Medication Aide. The proposed rule does not dictate the qualifications for the remaining staff, therefore assisted living facilities may use the following formula revised with their own figures to determine the cost to their facility. Based on staffing ratios in the proposed rule, assisted living facilities will be required to employ 649 employees between the hours of 6 a.m. to 10 p.m. (2 eight-hour shifts) $(10,194 \text{ current census in residential care facility IIs according to DHSS monthly reports for June, 2006} \times .70 \text{ percentage of facilities choosing to comply}) / (22^{***}) \times (2 \text{ shifts between hours of 6 a.m. and 10 p.m.})$. In addition, assisted living facilities will be required to employ 238 employees between the hours of 10:00 p.m. and 6:00 a.m. (1 eight-hour shift) $(10,194 \text{ current census in residential care facility IIs according to DHSS monthly reports for June, 2006} \times .70 \text{ percentage of facilities choosing to comply}) / (30^{***}) \times (1 \text{ shift})$. According to a study of level I medication aide salaries conducted in 2000 by Keller & Company, LLC, the average salary of a level I medication aide was \$14,289. To reach a current salary of \$15,718, this number was increased by 10% to account for increases in salary the past six years $(\$14,289 \times 1.1 = \$15,718)$. DHSS estimates the total yearly cost for assisted living facilities in the aggregate to be \$19,807,209 $(\$15,718 \times .4207 \text{ fringe rate}) + (\$15,718 \times (887 \text{ total employees}))$. DHSS estimates that current requirements under 19 CSR 30-86.042 require residential care facility IIs to employ 755 employees (day shift = $10,194 \text{ current census in residential care facility IIs according to DHSS monthly reports for June, 2006} \times .70 \text{ percentage of facilities choosing to comply}) / (22^{***}) + (\text{evening shift} = 10,194 \text{ current census in residential care facility IIs according to DHSS monthly reports for June, 2006} \times .70 \text{ percentage of facilities choosing to comply}) / (30^{***}) + (\text{night shift} = 10,194 \text{ current census in residential care facility IIs according to DHSS monthly reports for June, 2006} \times .70 \text{ percentage of facilities choosing to comply}) / (37^{***})$. DHSS estimates current yearly costs for residential care facility IIs in the aggregate to be \$16,859,575 $(\$15,718 \times .4207 \text{ fringe rate}) + (\$15,718 \times (755 \text{ total employees}))$. DHSS estimates the actual new yearly costs for assisted living facilities formerly licensed as residential care facility IIs in the aggregate to be \$2,947,634 $(\$19,807,209 - \$16,859,575)$.

In addition to the above requirements, this proposed rule requires assisted living facilities to employ a licensed nurse a minimum of eight hours per week for every 30 residents. Licensed nurse hours will increase as the facility census increases. DHSS estimates 238 licensed nurses will be required to work eight hours per week $(10,194 \text{ current census in residential care facility IIs according to DHSS monthly reports} \times .70 \text{ percentage of facilities choosing to comply}) / (30^{****})$ in assisted living facilities. Based on the Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised October 1, 2005) the average annual market salary for a licensed practical nurse I is \$24,984. DHSS estimates the total yearly cost to assisted living facilities in the aggregate to be \$1,689,416 $(\$24,982 \times .4207 \text{ fringe rate}) + (\$24,982) / (2080 \text{ hours in a work year}) \times (8 \text{ hours}) \times (52 \text{ weeks per year}) \times (238 \text{ LPNs})$. Current requirements under 19 CSR 30-86.042 require residential care facility IIs to employ 159 licensed nurses $(10,194 \text{ current census in residential care facility IIs according to DHSS monthly reports} \times .70 \text{ percentage of facilities choosing to comply}) /$

(45****). DHSS estimates current yearly costs for residential care facility IIs in the aggregate to be \$1,128,643 ($\$24,982 \times .4207$ fringe rate) + $(\$24,982) / (2080 \text{ hours in a work year}) \times (8 \text{ hours}) \times (52 \text{ weeks per year}) \times (159 \text{ LPNs})$. DHSS estimates the actual new yearly costs for assisted living facilities formerly licensed as residential care facility IIs in the aggregate to be \$560,773 ($\$1,689,416 - \$1,128,643$).

Staff Training – This proposed rule requires assisted living facilities that provide care to residents with Alzheimer’s disease or related dementia to provide 3 hours of dementia specific training to staff providing the care. According to the Alzheimer’s Association, the cost for such a class is approximately \$225. Because of staff turnover, DHSS estimates each assisted living facility will need three training sessions per year. DHSS estimates the total yearly cost for assisted living facilities in the aggregate to be \$164,700 ($\$225 \text{ cost per training} \times 3 \text{ training sessions per year} \times (244 \text{ facilities})$). Current regulations for residential care facility IIs caring for residents with Alzheimer’s disease or related dementia require six hours of classroom training. DHSS estimates current yearly costs for residential care facility IIs in the aggregate to be \$20,250 ($\$450 \text{ cost per training} \times 3 \text{ training sessions per year} \times (15 \text{ facilities currently providing care for residents with Alzheimer’s disease or related dementia})$). DHSS estimates the actual new yearly costs for assisted living facilities formerly licensed as residential care facility IIs in the aggregate to be \$144,450 ($\$164,700 - \$20,250$).

In addition to the above requirements, this proposed rule requires assisted living facilities to provide two hours of training by a licensed nurse for staff responsible for transferring residents and an additional hour of training every year after the initial training. Based on the Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised October 1, 2005) the average annual market salary for a licensed practical nurse I is \$24,984. Because of staff turnover, DHSS estimates each assisted living facility will need three two-hour training sessions per year and two one-hour training session per year. DHSS estimates the yearly costs for assisted living facilities formerly licensed as residential care facility IIs in the aggregate to be \$33,308 ($\$24,982 \times .4207$ fringe rate) + $(\$24,982) / (2080 \text{ hours in a work year}) \times (8 \text{ hours of training}) \times (244 \text{ facilities})$.

The following chart shows the total cost in the aggregate for assisted living facilities and the actual new costs in the aggregate for assisted living facilities formerly licensed as residential care facility IIs.

Requirement	Total Cost in the Aggregate	Current Cost in the Aggregate	Actual True New Cost in the Aggregate
Administrator	\$9,213,285	\$9,213,285	\$0
Drug Regimen and Controlled Substance Review	\$280,595	\$245,521	\$35,074
Staffing	\$21,496,625	\$17,988,218	\$3,508,407
Staff Training	\$198,008	\$20,250	\$177,758
TOTAL	\$31,188,513	\$27,467,274	\$3,721,239

B. In addition, information obtained from the Certificate of Need Program reveals 13 facilities who have CON approval for Residential Care Facility II. In determining the cost in the aggregate for these 13 facilities, DHSS utilized it's estimate of the yearly cost of compliance for each existing facility which is \$127,822 (\$31,188,513 total yearly cost in the aggregate for current facilities / 244 number of facilities choosing to comply with this proposed rule) plus three percent adjustment for inflation. DHSS estimates the actual costs for the 13 facilities with current CON approval for residential care facility II to be \$1,711,537 (\$127,822 cost to each facility) x (13 number of facilities with current CON approval for Residential Care Facility II) x (.03 inflation adjustment) + (\$1,661,686).

*The state of Missouri fringe benefit rate for fiscal year 2007 is 42.07 percent which includes retirement contribution, medical insurance, basic life insurance, long-term disability and Missouri deferred compensation. This rate was used throughout the fiscal note. Facilities can use this formula revised with their own figures to determine the cost to their facility.

** At an August 7,2006 public meeting, various members of the long term care industry verbally reported various estimated costs for specific requirements, but did not elaborate how they reached these conclusions.

*** Number of residents requiring one staff person.

**** Number of residents requiring one licensed nurse.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities [I and II] and
Assisted Living Facilities**

PROPOSED AMENDMENT

19 CSR 30-86.052 Dietary Requirements for [New and Existing] Residential Care Facilities [I] and [II] Assisted Living Facilities. The department is amending sections (1), (2) and (3), and adding a new section (9).

PURPOSE: This amendment deletes the terms residential care facility I and II used in this rule and replaces those terms with residential care facility (RCF) and assisted living facility (ALF) and clarifies standards for meeting dietary needs of residents in residential care facilities and assisted living facilities.

Editor's Note: All rules relating to long-term care facilities licensed by the [Division of Aging] department are followed by a Roman Numeral notation which refers to the class (either class I, II or III) of standard as designated in section 198.085.1, RSMo 1986.

(1) Each resident shall be served food prepared and served under safe, sanitary conditions that is prepared consistent with the preferences of the resident and in accordance with attending physician's orders. The nutritional needs of the residents shall be met. Balanced nutritious meals using a variety of foods shall be served. Consideration shall be given to the food habits, preferences, medical needs and physical abilities of the residents. II/III

(2) [At least three (3) substantial meals per day, of which at least two (2) are hot, shall be served.] Each resident shall receive and the facility shall provide at least three (3) meals daily, at regular times comparable to normal mealtimes in the community. At least two (2) meals daily shall be hot. II/III

(3) [Meals shall be served with not more than fourteen (14) hours from evening meal to morning meal.] There shall be no more than fourteen (14) hours between a substantial evening meal and breakfast the following day, except when a nourishing snack is provided at bedtime. Up to sixteen (16) hours may elapse between a substantial evening meal and breakfast the following day if a resident group agrees to this meal span, and a nourishing snack is served. III/III

(9) Nothing in this rule shall be construed as taking precedence over the resident's right to make decisions regarding his or her eating and dining preferences.

(A) In assisted living facilities, information about the resident's eating and dining preferences shall be incorporated in his or her individualized service plan based on an assessment that includes the resident's culture, life-long routines, habits, patterns and preferences. III

(B) In assisted living facilities, if the resident's eating and dining preferences have a potential health risk, staff shall inform the resident or his or her legally authorized representative of the potential health risks and document this in his or her individualized service plan. III

AUTHORITY: sections 198.076, RSMo [1986] 2000 and 198.005 and 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)). This rule originally filed as 13 CSR 15-15.052. Original rule filed July 13, 1983, effective Oct. 13, 1983. Emergency amendment filed Aug. 1, 1984, effective Aug. 13, 1984, expired Dec. 10, 1984. Amended: Filed Sept. 12, 1984, effective Dec. 13, 1984. Amended: Filed Aug. 1, 1988, effective

Nov. 10, 1988. Moved to 19 CSR 30-86.052, effective Aug. 28, 2001. Amended: Filed Aug. 23, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director, Division of Regulation and Licensure, Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 30—Division of [Health Standards]
Regulation and Licensure
Chapter 87—Sanitation Requirements for Long-Term
Care Facilities**

PROPOSED AMENDMENT

19 CSR 30-87.020 General Sanitation Requirements for New and Existing Long-Term Care Facilities. The department is amending sections (51) and (53).

PURPOSE: The amendment deletes the terms "residential care facility I" and "residential care facility II" and replaces those terms with "residential care facility" and "assisted living facility," clarifies that nothing in the rule shall prohibit a laundry area for use by residents and clarifies the requirements for residents transporting their personal laundry to a resident use laundry area.

EDITOR'S NOTE: All rules relating to long-term care facilities licensed by the [Division of Aging] department are followed by a Roman Numeral notation which refers to the class (either Class I, II or III) of standard as designated in section 198.085.1, RSMo.

(51) For intermediate care and skilled nursing facilities, existing [residential care facilities II] assisted living facilities and new residential care facilities [I and II] and assisted living facilities licensed for more than twelve (12) residents, if laundry is done in the facility entirely or partially, the laundry room shall be in a separate room from the kitchen, the residents' room(s), the sitting or living room and the bathrooms or the nursing utility room. Adequate space shall be provided in the laundry room for storing, sorting and processing soiled linen. Table linen shall be laundered separately from bed linen, towels and clothing. Space shall be provided for storing clean linen in a separate room from the laundry. Nothing in this rule shall prohibit a facility from providing a laundry area for use by residents. II/III

(53) Soiled clothes and linens shall be stored in nonabsorbent containers or washable laundry bags and shall be transported for laundering in tightly enclosed bags or containers. Nothing in this rule shall require residents to use tightly enclosed bags or containers when transporting their personal laundry items to the resident laundry area referred to in section (51). III

AUTHORITY: section 198.009, RSMo [1986] 2000 and 198.005 and 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)). This rule originally filed as 13 CSR 15-17.020. Original rule filed July 13, 1983, effective

Oct. 13, 1983. Emergency rule filed Aug. 1, 1984, effective Aug. 13, 1984, expired Dec. 10, 1984. Amended: Filed Sept. 12, 1984, effective Dec. 13, 1984. Amended: Filed Aug. 1, 1988, effective Nov. 11, 1988. Moved to 19 CSR 30-87.020, effective Aug. 28, 2001. Amended: Filed Aug. 23, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director of the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 30—Division of [Health Standards]
Regulation and Licensure
Chapter 87—Sanitation Requirements for Long-Term
Care Facilities**

PROPOSED AMENDMENT

19 CSR 30-87.030 Sanitation Requirements for Food Service. The department is amending sections (4), (7), (9), (10), (12), (15), (25), (39), (40), (71), (72), (73), (74) and (80), adding new sections (10) and (97) and renumbering sections (10) through (95).

PURPOSE: This amendment deletes the term “residential care facility I” and replaces that term with “residential care facility,” updates provisions relating to reference materials, adds provisions for kitchen and family style eating areas in assisted living facilities, utilizing the social model during mealtimes, installing aviaries in the dining room, using fresh garden produce and food service sanitation requirements for carry-in dinners, clarifies food service sanitation requirements for animals in dining areas, and changes the name of the agency throughout the rule due to the transfer of the Division of Aging from the Department of Social Services to the Department of Health and Senior Services effective August 28, 2001.

PUBLISHER’S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

EDITOR’S NOTE: All rules relating to long-term care facilities licensed by the [Division of Aging] department are followed by a Roman Numeral notation which refers to the class (either Class I, II or III) of standard as designated in section 198.085.1, RSMo.

(4) Employees shall consume food only in designated dining areas. An employee dining area shall not be so designated if consuming food there may result in contamination of other food, equipment, utensils or other items needing protection. **Nothing in this section shall prohibit staff from dining with residents when the facility utilizes the social model for mealtime.** III

(7) Food preparation and storage shall not be conducted in any room used as living or sleeping quarters. In a facility licensed for more than twelve (12) residents, except in an existing residential care facility [I], food service operations shall be separated from living or sleeping quarters by complete partitioning and solid, self-closing doors. **Nothing in this section shall prohibit an assisted living facility from providing kitchen and family style eating areas for use by residents.** III

(9) Live animals, including birds and turtles shall be excluded from [within] the food storage, service and preparation areas[, provided that pets may be in the dining area when food is not actually being served]. This exclusion does not apply to edible fish, crustacea, shellfish or to fish in aquariums. Patrol dogs accompanying security or police officers, or service or guide dogs [accompanying blind or deaf persons] assisting residents or visitors shall be permitted in dining areas. **Other dogs and cats may be permitted in the dining area if food service sanitation is not compromised and residents do not object.** III

(10) Birds within enclosed aviaries may be in the dining area with the following stipulations:

(A) The facility ensures the aviary is cleaned at least twice a week and more often as needed to maintain a clean environment; III

(B) The facility provides proper hand washing instructions to those staff having access to the birds and monitors to ensure compliance; and III

(C) The facility contacts the local or county Health Department and informs that department that an aviary has been installed. III

[[10]] (11) Food shall be in sound condition, free from spoilage, filth or other contamination and shall be safe for human consumption. Food shall be obtained from sources that comply with all laws relating to food and food labeling. The use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited. **Nothing in this section shall prohibit facilities from using fresh vegetables or fruits purchased from farmers’ markets or obtained from the facility garden or residents’ family gardens.** I/II

[[11]] (12) Fluid milk and fluid milk products used or served shall be pasteurized and shall meet the Grade A quality standards as established by law. Dry milk and dry milk products shall be made from pasteurized milk products. I/II

[[12]] (13) At all times, including while being stored, prepared, displayed, served or transported to or from the facility, food shall be protected from potential contamination, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, drainage and overhead leakage or overhead drippage from condensation. The temperature of potentially hazardous food shall be forty-five degrees Fahrenheit (45°F) or below or one hundred forty degrees Fahrenheit (140°F) or above at all times, except as otherwise provided in this section. In the event of a fire, flood, power outage or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the person in charge shall immediately contact the [Division of Aging] Department of Health and Senior Services (the department). Upon receiving notice of this occurrence, the [Division of Aging] department shall take whatever action that it deems necessary to protect the residents. II/III

[[13]] (14) Food, whether raw or prepared, if removed from the container or package in which it was obtained, shall be stored in a clean covered container except during necessary periods of preparation or

service. Container covers shall be impervious and nonabsorbent except that linens or napkins may be used for lining or covering bread or roll containers. III

[[14]] (15) Containers of food shall be stored above the floor in a manner that protects the food from splash and other contamination and that permits easy cleaning of the storage area, except that metal pressurized beverage containers, and cased food packaged in cans, glass or other waterproof containers need not be elevated when the food container is not exposed to floor moisture; and containers may be stored on dollies, racks or pallets, provided the equipment is easily movable. III

[[15]] (16) Food and containers of food shall be stored in a manner which *would* protect it from contamination. The storage of food in toilet rooms or vestibules is prohibited. II/III

[[16]] (17) Unless its identity is unmistakable, bulk food, such as cooking oil, syrup, salt, sugar or flour not stored in the product container or package in which it was obtained, shall be stored in a container identifying the food by common name. III

[[17]] (18) Enough conveniently located refrigeration facilities or effectively insulated facilities shall be provided to assure the maintenance of potentially hazardous food at required temperatures during storage. Each mechanically refrigerated facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to plus or minus three degrees Fahrenheit ($\pm 3^{\circ}\text{F}$), located to measure the air temperature in the warmest part of the refrigerated facility and located to be easily readable. Recording thermometers, accurate to plus or minus three degrees Fahrenheit ($\pm 3^{\circ}\text{F}$), may be used in lieu of indicating thermometers. III

[[18]] (19) Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of forty-five degrees Fahrenheit (45°F) or below, utilizing such methods as shallow pans, agitation, quick chilling or water circulation external to the food container so that the cooling period shall not exceed four (4) hours. Potentially hazardous food to be transported shall be prechilled and held at a temperature of forty-five degrees Fahrenheit (45°F) or below. I/II

[[19]] (20) Frozen food shall be kept frozen and should be stored at a temperature of zero degrees Fahrenheit (0°F) or below. III

[[20]] (21) Ice intended for human consumption shall not be used as a medium for cooling stored food, food containers or food utensils, except that such ice may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head. Ice used for cooling stored food and food containers shall not be used for human consumption. III

[[21]] (22) Tubing conveying beverages or beverage ingredients to dispensing heads may be in contact with stored ice provided that, the tubing is fabricated from safe materials, is grommeted at entry and exit points to preclude moisture (condensation) from entering the ice machine or the ice storage bin and is kept clean. Drainage or drainage tubes from dispensing units shall not pass through the ice machine or the ice storage bin. III

[[22]] (23) Enough conveniently located hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage. Each hot food facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to plus or minus three degrees Fahrenheit ($\pm 3^{\circ}\text{F}$), located to measure the air temperature in the coolest part of the hot food storage facility and located to be easily readable. Recording thermometers, accurate to plus or minus three

degrees Fahrenheit ($\pm 3^{\circ}\text{F}$), may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as bains-maries, steam tables, steam kettles, heat lamps, calrod units or insulated food transport carriers, a product thermometer must be available and used to check internal food temperature. III

[[23]] (24) The internal temperature of potentially hazardous foods requiring hot storage shall be one hundred forty degrees Fahrenheit (140°F) or above, except during periods of preparation. Potentially hazardous food to be transported shall be held at a temperature of one hundred forty degrees Fahrenheit (140°F) or above. I/II

[[24]] (25) Raw fruits and vegetables shall be thoroughly washed with potable water before being cooked or served. II/III

[[25]] (26) Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least one hundred forty degrees Fahrenheit (140°F), except that poultry, poultry stuffings, stuffed meats and stuffings containing meat shall be cooked to heat all parts of the food to at least one hundred sixty-five degrees Fahrenheit (165°F) with no interruption of the cooking process. *[. /p]* Pork and food containing pork shall be cooked to heat all parts of the food to at least one hundred fifty degrees Fahrenheit (150°F); rare roast beef shall be cooked to an internal temperature of at least one hundred thirty degrees Fahrenheit (130°F); and rare beef steak shall be cooked to a temperature of one hundred thirty degrees Fahrenheit (130°F) unless otherwise ordered by the resident. II/III

[[26]] (27) Liquid, frozen, dry eggs and egg products shall be used only for cooking and baking purposes. II/III

[[27]] (28) Only clean whole eggs, with shell intact and without cracks or checks, or pasteurized liquid or frozen, or dry eggs or pasteurized dry egg products shall be used, except that hard-boiled, peeled eggs, commercially prepared and packaged, may be used. II

[[28]] (29) Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to one hundred sixty-five degrees Fahrenheit (165°F) or higher throughout before being served or before being placed in a hot food-storage facility. II

[[29]] (30) Steam tables, bains-maries, warmers and similar hot food-holding facilities are prohibited for the rapid reheating of potentially hazardous foods. II/III

[[30]] (31) Nondairy creaming, whitening or whipping agents may be reconstituted on the premises only when they will be stored in sanitized, covered containers not exceeding one (1) gallon in capacity and cooled to forty-five degrees Fahrenheit (45°F) or below within four (4) hours after preparation. II/III

[[31]] (32) Metal stem-type numerically scaled indicating thermometers, accurate to plus or minus two degrees Fahrenheit ($\pm 2^{\circ}\text{F}$), shall be provided and used to assure the attainment and maintenance of proper internal cooking, holding or refrigeration temperatures of all potentially hazardous foods. II/III

[[32]] (33) Potentially hazardous foods shall be thawed in refrigerated units at a temperature not to exceed forty-five degrees Fahrenheit (45°F); or under potable running water at a temperature of seventy degrees Fahrenheit (70°F) or below, with sufficient water velocity to agitate and float off loose food particles into the overflow; or in a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or as part of the conventional cooking process. II/III

[(33)] (34) At time of service to the resident, food shall be at least one hundred twenty degrees Fahrenheit (120°F) or forty-five degrees Fahrenheit (45°F) or below. II/III

[(34)] (35) Milk and milk products for drinking purposes shall be provided to the resident in an unopened, commercially filled package not exceeding one (1) pint in capacity, or shall be drawn from a commercially filled container stored in a mechanically refrigerated bulk milk dispenser, or shall be poured directly into glass(es) to be used by the resident(s) from a commercially filled gallon or half-gallon container provided the container is completely emptied in the process and then discarded, or if a portion of milk remains, that no milk may be returned to that container and is immediately refrigerated. Where a bulk dispenser for milk and milk products is not available and portions of less than one-half (1/2) pint are required for mixed drinks, cereal or dessert service, milk and milk products may be poured from a commercially filled container of not more than one (1) gallon capacity and no milk may be returned to that container. II/III

[(35)] (36) Reconstituted dry milk and dry milk products shall not be used for drinking purposes but may be used in instant desserts and whipped products, or for cooking and baking purposes. III

[(36)] (37) Cream or half-and-half or nondairy creaming agents or whitening agents shall be provided in an individual service container, protected pour-type pitcher or drawn from a refrigerated dispenser designed for such service. III

[(37)] (38) Condiments, seasoning and dressings for self-service use shall be provided in individual packages, from dispensers or from protected containers. III

[(38)] (39) Condiments provided for table or counter service shall be individually portioned, except that catsup and other sauces may be served in the original container or pour-type dispenser. Sugar for consumer shall be provided in individual packages or in pour-type dispensers. III

[(39)] (40) Ice shall be *[displayed]* **dispensed** only with scoops, tongs or other ice-dispensing utensils or through automatic self-service, ice-dispensing equipment. Ice-dispensing utensils shall be stored on a clean surface or in the ice with the dispensing utensil's handle extended out of the ice. Between uses, ice transfer receptacles shall be stored in a way that protects them from contamination. Ice storage bins shall be drained through an air gap. III

[(40)] (41) To avoid unnecessary manual contact with food, suitable preparation and dispensing utensils shall be used by employees or provided to consumers who serve themselves. Between uses, during service, dispensing utensils shall be stored in a manner which *[would]* prevents contamination. III

[(41)] (42) Once served to a resident, portions of leftover food shall not be served again except that packaged food, other than potentially hazardous food, that is still packaged and is still in sound condition, may be re-served. III

[(42)] (43) Food on display shall be protected from resident contamination by the use of packaging or by the use of easily cleanable counter, serving line or salad bar protector devices, display cases or by other effective means. Enough hot or cold food facilities shall be available to maintain the required temperature of potentially hazardous foods on display. III

[(43)] (44) Equipment and utensils shall be constructed and repaired with safe materials including finishing materials; shall be corrosion-resistant and nonabsorbent; and shall be smooth, easily cleanable and durable under conditions of normal use. Single-service articles

shall be made from clean, sanitary, safe materials. Equipment utensils and single-service articles shall not impart odors, color or taste nor contribute to the contamination of food. III

[(44)] (45) Hard maple or equivalently nonabsorbent material may be used for cutting blocks, cutting boards, salad bowls and baker's tables. The use of wood as a food-contact surface under other circumstances is prohibited. III

[(45)] (46) Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods, and which meet the general requirements of this rule, are permitted for repeated use. III

[(46)] (47) Re-use of single service articles is prohibited. III

[(47)] (48) Food-contact surfaces shall be easily cleanable, smooth and free of breaks, open seams, cracks, chips, pits and similar imperfections and free of difficult-to-clean internal corners and crevices. Cast iron may be used as a food-contact surface only if the surface is heated, such as in grills, griddle tops and skillets. Threads shall be designed to facilitate cleaning; ordinary "V" type threads are prohibited in food-contact surfaces, except that in equipment such as ice makers or hot oil-cooking equipment and hot oil-filtering systems, these threads shall be minimized. III

[(48)] (49) Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricant cannot leak, drip or be forced into food or onto food-contact surfaces. Only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces. III

[(49)] (50) All sinks and drain boards shall be self-draining. III

[(50)] (51) Unless designed for in-place cleaning, food-contact surfaces shall be accessible for cleaning and inspection without being disassembled; or by disassembling without the use of tools; or by easy disassembling with the use of only simple tools such as a mallet, a screwdriver or an open-end wrench kept available near the equipment. III

[(51)] (52) Equipment intended for in-place cleaning shall be so designed and fabricated that cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen; cleaning and sanitizing solutions will contact all interior food-contact surfaces; and the system is self-draining or capable of being completely evacuated. III

[(52)] (53) Fixed equipment designed and fabricated to be cleaned and sanitized by pressure spray methods shall have sealed electrical wiring, switches and connections. III

[(53)] (54) Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections or crevices, and readily accessible for cleaning, and shall be of such material and in a repair as to be easily maintained in a clean and sanitary condition. III

[(54)] (55) Ventilation hoods and devices shall be designed to prevent grease or condensation from collecting on walls and ceilings and from dripping into food or onto food-contact surfaces. Filters or other grease-extracting equipment shall be readily removable for cleaning and replacement if not designed to be cleaned in place. III

[(55)] (56) Equipment that was installed in an existing licensed facility and that does not fully meet all of the design and fabrication requirements shall be deemed acceptable in that establishment if it is in good repair, capable of being maintained in a sanitary condition and the food-contact surfaces are nontoxic. Replacement equipment and new equipment shall meet the requirements for design and fabrication. III

[(56)] (57) Equipment that is placed on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide clearance between the table or counter and equipment and shall be installed to facilitate the cleaning of the equipment adjacent areas. Equipment is portable if it is small and light enough to be moved easily by one (1) person; and it has no utility connection, or has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning. III

[(57)] (58) Floor-mounted equipment, unless readily movable, shall be sealed to the floor; or installed on a raised platform of concrete or other smooth masonry in a way that meets all of the requirements for sealing or floor clearance; or elevated on legs to provide clearance between the floor and equipment, except that vertically-mounted floor mixers may be elevated to provide at least a four inch (4")-clearance between the floor and equipment if no part of the floor under the mixer is more than six inches (6") from the cleaning access. Equipment is easily movable if it is mounted on wheels or casters; and it has no utility connection or has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning. III

[(58)] (59) Unless sufficient space is provided for easy cleaning between, behind and above each unit of fixed equipment, the space between it and adjoining equipment units and adjacent walls or ceilings shall not be more than one-thirty-second inch (1/32"); or if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls or ceilings. III

[(59)] (60) Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. All easily movable storage equipment such as pallets, racks and dollies shall be positioned to provide accessibility to working areas. III

[(60)] (61) Tableware shall be washed, rinsed and sanitized after each use. II

[(61)] (62) Kitchenware and food-contact surfaces of equipment shall be washed, rinsed and sanitized after each use and following any interruption of operations during which time contamination may have occurred. Water pitchers which are for individual resident use shall be sanitized daily. II/III

[(62)] (63) Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production-line basis, utensils and the food-contact surfaces of equipment shall be washed, rinsed and sanitized at intervals throughout the day on a schedule based on food temperature, type of food and amount of food particle accumulation. III

[(63)] (64) The food-contact surfaces of grills, griddles and similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day, except that this shall not apply to hot oil-cooking equipment and hot oil-filtering systems. The food-contact surfaces of all cooking equipment shall be kept free of encrusted grease deposits and other accumulated soil. III

[(64)] (65) Nonfood-contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles and other debris. III

[(65)] (66) Cloths used for wiping food spills on tableware, such as plates or bowls being served to the consumer, shall be clean, dry and used for no other purpose. III

[(66)] (67) Moist cloths or sponges used for wiping food spills on kitchenware and food-contact surfaces of equipment shall be clean and rinsed frequently in one (1) of the permitted sanitizing solutions and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses. Moist cloths or sponges used for cleaning nonfood-contact surfaces of equipment such as counters, dining table tops and shelves shall be clean and rinsed and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses. III

[(67)] (68) For manual washing, rinsing and sanitizing of utensils and equipment, a sink with not fewer than three (3) compartments shall be provided and used. Sink compartments shall be large enough to permit the accommodation of the equipment and utensils and each compartment of the sink shall be supplied with hot and cold potable running water, except that in an existing licensed facility, the use of a two (2)-vat sink and a supplementary portable container to be used for sanitization is acceptable. Fixed equipment and utensils and equipment too large to be cleaned in sink compartment shall be washed manually or cleaned through pressure spray methods. III

[(68)] (69) Drain boards or easily movable dish tables of adequate size shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and shall be located so as not to interfere with the proper use of the dishwashing facilities. III

[(69)] (70) Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove gross food particles and soil. III

[(70)] (71) Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing and sanitizing shall be conducted in the following sequence: sinks shall be cleaned prior to use; equipment and utensils shall be thoroughly washed in the first compartment with hot detergent solution that is kept clean; equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment; and equipment and utensils shall be sanitized in the third compartment. III

[(71)] (72) The food-contact surfaces of all equipment and utensils shall be sanitized by immersion for at least one-half (1/2) minute in clean, hot water at a temperature of at least one hundred seventy degrees Fahrenheit (170°F); or immersion for at least one (1) minute in a clean solution containing at least fifty (50) parts per million of available chlorine as a hypochlorite and at a temperature of at least seventy-five degrees Fahrenheit (75°F); or immersion for at least one (1) minute in a clean solution containing at least twelve and one-half (12.5) parts per million of available iodine and having a pH not higher than five (5.0) and at a temperature of at least seventy-five degrees Fahrenheit (75°F); or immersion in a clean solution containing any other chemical sanitizing agent allowed under 21 CFR 178.1010 of the *[1976 edition of the] (Revised 2005), Food and Drug Code of the United States Food and Drug Administration, [Food Service Sanitation Ordinance,] Department of Health and Human Services, 200 Independence Avenue, S.W. Washington, D.C. 20201, Telephone: 202-619-0257, Toll Free: 1-877-696-6775*, that will provide the equivalent bactericidal effect of a solution containing at least fifty (50) parts per million of available chlorine as a

hypochlorite at a temperature of at least seventy-five degrees Fahrenheit (75°F); or treatment with steam, free from materials or additives other than those specified in 21 CFR 173.310 of the *[1976 edition of the] (Revised 2005), Food and Drug Code of the United States Food and Drug Administration, [Food Service Sanitation Ordinance,] Department of Health and Human Services*, in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or rinsing, spraying or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution in the case of equipment too large to sanitize by immersion. **(21 CFR 178.1010 (Revised 2005) and 21 CFR 173.310 (Revised 2005) are incorporated by reference in this rule and available by Internet at: www.access.gpo.gov. This rule does not incorporate any subsequent amendments or additions.)** II/III

[(72)] (73) When hot water is used for sanitizing, as allowed by section *[(63)](72)* of this rule, the following facilities shall be provided and used: an integral heating device or fixture installed in, on or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least one hundred seventy degrees Fahrenheit (170°F); and a numerically scaled indicating thermometer, accurate to plus or minus three degrees Fahrenheit ($\pm 3^\circ\text{F}$), convenient to the sink for frequent checks of water temperature; and dish baskets of such size and design to permit complete immersion of the tableware, kitchenware and equipment in the hot water. II/III

[(73)] (74) When chemicals are used for sanitization, they shall not have concentrations higher than the maximum permitted under 21 CFR 178.1010 of the *[1976 edition of the] (Revised 2005), Food and Drug Code of the United States Food and Drug Administration, [Food Service Sanitation Ordinance] Department of Health and Human Services*, and a test kit or other device that accurately measures the parts per million concentration of the solution shall be provided and used. III

[(74)] (75) Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. In a facility with a licensed capacity of twelve (12) or fewer beds, a home-type dishwashing machine shall be acceptable. If a new machine is purchased, it shall be one *[(1)]* with sanitizing capabilities. In a facility licensed for a larger capacity, if a dishwasher is used, it shall meet the requirements in sections *[(63)–(69)] (72)–(74)* of this rule. Machines and devices shall be properly installed and maintained in good repair; shall be operated in accordance with manufacturers' instructions; and utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. Automatic detergent dispensers, wetting agent dispensers and liquid sanitizer injectors, if any, shall be properly installed and maintained. II/III

[(75)] (76) The pressure of final rinse water supplied to spray-type dishwashing machines shall not be less than fifteen (15) nor more than twenty-five (25) pounds per square inch measured in the water line immediately adjacent to the final rinse control valve. A one-fourth inch (1/4") IPS valve shall be provided immediately upstream from the final rinse control valve to permit checking the flow pressure of the final rinse water. III

[(76)] (77) Machine- or water line-mounted numerically scaled indicating thermometers, accurate to plus or minus three degrees Fahrenheit ($\pm 3^\circ\text{F}$), shall be provided to indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold. III

[(77)] (78) Rinse water tanks shall be protected by baffles, curtains or other effective means of minimizing the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accu-

rately timed to assure proper exposure times in wash and rinse cycles in accordance with manufacturers' specifications attached to the machines. III

[(78)] (79) Drain boards shall be provided and be of adequate size for the proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization and shall be so located and constructed as not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily movable dish tables for the storage of soiled utensils or the use of each movable dish table for the storage of clean utensils following sanitization. III

[(79)] (80) Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to being washed in a dishwashing machine unless a prewash cycle is a part of the dishwashing machine operation. Equipment and utensils shall be placed in racks, trays or baskets, or on conveyors, in a way that food-contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters and that permits free draining. III

[(80)] (81) Machines (single-tank, stationary-rack, door-type machines and spray-type glass washes) using chemicals for sanitization may be used provided that—the temperature of the wash water is not less than one hundred twenty degrees Fahrenheit (120°F), the wash water is kept clean, chemicals added for sanitization purposes are automatically dispensed; utensils and equipment are exposed to the final chemical sanitizing rinse in accordance with manufacturers' specifications for time and concentration, the chemical sanitizing rinse water temperature is not less than seventy-five degrees Fahrenheit (75°F) nor less than the temperature specified by the machine's manufacturer; chemical sanitizers used shall meet the requirements of 21 CFR 178.1010 *[1976 edition of the] (Revised 2005), Food and Drug Code of the United States Food and Drug Administration, [Food Service Sanitation Ordinance,] Department of Health and Human Services*, and a test kit or other device that accurately measures the parts per million concentration of the solution is available and is used. II/III

[(81)] (82) Machines using hot water for sanitizing may be used provided that they are operated in accordance with the manufacturer's instructions and are maintained in good repair. II/III

[(82)] (83) All dishwashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory operating condition. III

[(83)] (84) After mechanical or manual sanitization, all equipment and utensils shall be air dried. All utensils shall be stored in a self-draining position. III

[(84)] (85) Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. Spoons, knives and forks shall be touched only by their handles. Cups, glasses, bowls, plates and similar items shall be handled without contact with inside surfaces or surfaces that contact the user's mouth. III

[(85)] (86) Cleaned and sanitized utensils and equipment shall be stored above the floor in a clean, dry location in a way that protects them from contamination by splash, dust and other means. The food-contact surfaces of fixed equipment shall also be protected from contamination. III

[(86)] (87) Glasses and cups shall be stored inverted. Other stored utensils shall be covered or inverted, wherever practical. Facilities for the storage of knives, forks and spoons shall be designed and used to present the handle to the employee or consumer. Unless tableware is prewrapped, holders for knives, forks and spoons at self-service

locations shall protect these articles from contamination and present the handle of the utensil to the consumer. III

[(87)] (88) Single-service articles shall be stored above the floor in closed cartons or containers which protect them from contamination. III

[(88)] (89) Single-service articles shall be handled and dispensed in a manner that prevents contamination of surfaces which may come in contact with food or with the mouth of the user. III

[(89)] (90) Single-service knives, forks and spoons packaged in bulk shall be inserted into holders or be wrapped by a person who has washed his/her hands immediately prior to sorting or wrapping utensils. Unless single-service knives, forks and spoons are prewrapped or prepackaged, holders shall be provided to protect these items from contamination. III

[(90)] (91) Prohibited Storage Area. The storage of food equipment, utensils or single-service articles in toilet rooms or vestibules is prohibited. III

[(91)] (92) All storage and installation of equipment under exposed sewage or water line, except for automatic fire protection sprinkler heads, is prohibited. II

[(92)] (93) Permanently fixed artificial light sources shall be installed to provide at least twenty (20) footcandles of light on all food preparation surfaces and at equipment or utensil-washing work levels. III

[(93)] (94) Permanently fixed artificial light sources shall be installed to provide, at a distance of thirty inches (30") from the floor, at least twenty (20) footcandles of light in utensil and equipment storage areas and in lavatory and toilet areas, and at least ten (10) footcandles of light in walk-in refrigerating units, dry food-storage areas and in all other areas. This shall also include dining areas during cleaning operations. III

[(94)] (95) Shielding to protect against broken glass falling onto food shall be provided for all artificial lighting fixtures located over, by or within food storage, preparation, service and display facilities, and facilities where utensils and equipment are cleaned and stored. III

[(95)] (96) Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed. III

(97) Nothing in this rule shall prohibit a facility from hosting a resident/family picnic, carry-in dinner, fish fry or barbecue or allowing a local community or church group to sponsor such activities for residents. Reasonable practices shall be used for maintaining sanitation and appropriate temperatures of food brought to the facility. III

AUTHORITY: sections 198.009, 198.076 and 198.079, RSMo [1986] 2000 and 198.005 and 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)). This rule originally filed as 13 CSR 15-17.030. Original rule filed July 13, 1983, effective Oct. 13, 1983. Emergency amendment filed Aug. 1, 1984, effective Aug. 13, 1984, expired Dec. 10, 1984. Amended: Filed Sept. 12, 1984, effective Dec. 13, 1984. Amended: Filed Aug. 1, 1988, effective Nov. 11, 1988. Moved to 19 CSR 30-87.030, effective Aug. 28, 2001. Amended: Filed Aug. 23, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director of the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 88—Resident's Rights and Handling Resident
Funds and Property in Long-Term Care Facilities**

PROPOSED AMENDMENT

19 CSR 30-88.010 Resident Rights. The department is amending section (24).

PURPOSE: This amendment deletes the term "residential care facility I" and replaces that term with "residential care facility" and deletes the term "residential care facility II" and replaces that term with "assisted living facility."

Editor's Note: All rules relating to long-term care facilities licensed by the [Division of Aging] department are followed by a Roman Numeral notation which refers to the class (either Class I, II or III) of standard as designated in section 198.085.1, RSMo.

(24) In a residential care facility [I or II] or an assisted living facility, if it is ever necessary to use a restraint in the case of emergency, the resident shall be reevaluated immediately for appropriateness of placement and transferred if necessary. II/III

AUTHORITY: sections 198.009, 198.076, 198.079 and 198.088, RSMo 2000 and 660.050 and 660.060, RSMo Supp. 2005 and 198.005 and 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)). This rule originally filed as 13 CSR 15-18.010. Original rule filed July 13, 1983, effective Oct. 13, 1983. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 23, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director, Division of Regulation and Licensure, Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 400—Life, Annuities and Health
Chapter 2—Accident and Health Insurance in General**

PROPOSED RULE

20 CSR 400-2.135 Health Benefit Plans Issued to Associations with Small and Large Employers

PURPOSE: This rule establishes the requirements for health carriers seeking an exemption under section 376.421.1(5)(e), (HB 1827, 93rd General Assembly, Second Regular Session (2006)).

(1) Definitions. When used in this regulation—

(A) “Health benefit plan” shall have the definition as found in section 376.1350, RSMo;

(B) “Health carrier” shall have the definition as found in section 376.1350, RSMo;

(C) “Producer” shall have the definition as found in section 375.012, RSMo; and

(D) “Small employer” shall have the definition as found in section 379.930.2, RSMo.

(2) Request for Suspension of Rate Restriction. A health carrier seeking an exemption under section 376.421.1(5)(e), RSMo for a policy issued to an association, a trust or to the trustees of a fund established, created and maintained for the benefit of members of one (1) or more associations which is insuring large employers and small employers shall:

(A) File with the department completed affidavit forms approved by this rule at the time of policy inception;

(B) File with the department completed affidavit forms approved by this rule within the thirty (30)-day period prior to the annual renewal for any additional year during which an exemption under section 376.421.1(5)(e), RSMo is sought;

(C) Maintain copies of current affidavits required by this rule with the insurer’s master policy for the length of time required by section 374.205, RSMo and 20 CSR 300-2.200;

(D) Submit data to the department to track the market impact of this type of association health benefit plan. The data elements will be identified and submitted on the Missouri A&H Supplement form;

(E) Comply with 20 CSR 400-2.130 except that completion of the forms required in subsection (2)(A) of this rule shall constitute compliance with 20 CSR 400-2.130(2)(C) for issuance of policies to an association, a trust or to the trustees of a fund established, created and maintained for the benefit of members of one (1) or more associations; and

(F) Comply with all provisions of the Small Employer Health Insurance Availability Act found in sections 379.930-952, RSMo except for the exempted provision of section 379.936.1(1), RSMo.

(3) Producer Disclosure. Producers shall disclose the exemption to the association or trust and to the small employers insured under the association health benefit plan.

(4) Application Forms. The following forms have been adopted and approved for filing with the department:

(A) Association’s Request for Suspension of Index Rate Restriction Affidavit (“Form AHP1”), revised September 2006, or any form which substantially comports with the specified form; and

(B) Producer’s Request for Suspension of Index Rate Restriction Affidavit (“Form AHP2”), revised September 2006, or any form which substantially comports with the specified form; and

(C) Insurer’s Request for Suspension of Index Rate Restriction Affidavit (“Form AHP3”), revised September 2006, or any form which substantially comports with the specified form.

(5) Availability of Forms. The department on request will supply in printed format the forms listed in this rule. Accurate reproduction of the forms may be utilized for filing in lieu of the printed forms. All application forms referenced herein are available at <http://www.insurance.mo.gov>.

AUTHORITY: sections 374.045 and 374.205, RSMo 2000, and 376.421, RSMo (HB 1827, 93rd General Assembly, Second Regular Session (2006)). Original rule filed Sept. 1, 2006.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed rule at 10:00 a.m. on November 7, 2006. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed rule, until 5:00 p.m. on November 7, 2006. Written statements shall be sent to Stephen Gleason, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

SPECIAL NEEDS: If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

**Title 1—OFFICE OF ADMINISTRATION
Division 10—Commissioner of Administration
Chapter 11—Travel Regulations**

ORDER OF RULEMAKING

By the authority vested in the Commissioner of Administration under sections 33.095, RSMo 2000 and 37.450, RSMo Supp. 2005, the commissioner adopts a rule as follows:

**1 CSR 10-11.030 State of Missouri Vehicular Travel Regulations
is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on June 15, 2006 (31 MoReg 901-902). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 1—Wildlife Code: Organization**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-1.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 17, 2006 (31 MoReg 1058). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

EXPLANATION OF CHANGE: Section (2) is being changed to reflect a new organization structure that was approved by the Conservation Commission at its August 17, 2006 meeting.

3 CSR 10-1.010 Organization and Method of Operation

(2) The commission appoints a director who serves as the administrative officer of the Department of Conservation. The director appoints other employees. Three (3) assistant directors, general counsel and internal auditor are responsible to the director and facilitate administration of the department. Programs and activities are carried out by the divisions of administrative services, design and development, fisheries, forestry, human resources, outreach and education, private land services, protection, resource science and wildlife. Policy coordination unit serves the director, divisions and regions by assisting with environmental and regulatory issues.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 4—Wildlife Code: General Provisions**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-4.111 Endangered Species is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15, 2006 (31 MoReg 768). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A total of one hundred sixty (160) comments were received by the department during the thirty (30)-day comment period. Of these comments, one hundred fifty-nine (159) were in opposition, one (1) in favor. One hundred forty-one (141) comments were a "form" letter. Twenty-five percent (25%) of the comments were received from Missouri residents, seventy-five percent (75%) were received from non-residents.

RESPONSE: The Conservation Commission was presented a summary of the comments received at its August 17 meeting. The commission voted to reaffirm its decision to remove the mountain lion from the Missouri Endangered Species list.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 7—Wildlife Code: Hunting: Seasons,
Methods, Limits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-7.440 is amended.

This amendment establishes hunting seasons and limits and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-7.440 by establishing seasons and limits for hunting migratory waterfowl during the 2006-2007 seasons.

3 CSR 10-7.440 Migratory Game Birds and Waterfowl: Seasons, Limits

PURPOSE: This amendment establishes season dates and bag limits for hunting waterfowl within frameworks established by the U.S. Fish and Wildlife Service for the 2006-2007 seasons.

(1) Migratory game birds and waterfowl may be taken, possessed, transported and stored only as provided in federal regulations and this Code.

(2) The head or one (1) fully feathered wing must remain attached to all waterfowl while being transported from the field to one's home or a commercial preservation facility.

(3) Seasons and limits are as follows:

(F) Ducks and coots may be taken from one-half (1/2) hour before sunrise to sunset from October 28, 2006 through December 26, 2006 in the North Zone (that portion of Missouri north of a line running west from the Illinois border at Lock and Dam 25; west on Lincoln County Hwy. N to Mo. Hwy. 79; south on Mo. Hwy. 79 to Mo. Hwy. 47; west on Mo. Hwy. 47 to Interstate Hwy. 70; west on Interstate Hwy. 70 to the Kansas border); from November 24, 2006 through January 22, 2007 in the South Zone (that portion of the state south of a line running west from the Illinois border on Mo. Hwy. 34 to Interstate Hwy. 55; south on Interstate Hwy. 55 to U.S. Hwy. 62; west on U.S. Hwy. 62 to Mo. Hwy. 53; north on Mo. Hwy. 53 to Mo. Hwy. 51; north on Mo. Hwy. 51 to U.S. Hwy. 60; west on U.S. Hwy. 60 to Mo. Hwy. 21; north on Mo. Hwy. 21 to Mo. Hwy. 72; west on Mo. Hwy. 72 to Mo. Hwy. 32; west on Mo. Hwy. 32 to U.S. Hwy. 65; north on U.S. Hwy. 65 to U.S. Hwy. 54; west on U.S. Hwy. 54 to the Kansas border); and from November 4, 2006 through January 2, 2007 in the Middle Zone (remainder of Missouri). Ducks and coots may be taken by youth hunters fifteen (15) years of age or younger from one-half (1/2) hour before sunrise to sunset from October 21, 2006 through October 22, 2006 in the North Zone, from October 28, 2006 through October 29, 2006 in the Middle Zone and from November 18, 2006 through November 19, 2006 in the South Zone. Youth hunters must be accompanied by an adult eighteen (18) years of age or older who cannot hunt ducks. Adults must be licensed (i.e. possess any permit that allows small game hunting) unless the youth hunter possesses a valid hunter education certificate card. Limits are as follows:

1. Coots—Fifteen (15) daily; thirty (30) in possession.

2. Ducks—The daily bag limit of ducks is six (6) and may include no more than four (4) mallards (no more than two (2) of which may be a female), two (2) scaup, two (2) wood ducks, one (1) black duck, two (2) redheads, two (2) hooded mergansers, one (1) pintail and one (1) canvasback. The possession limit is twelve (12), including no more than eight (8) mallards (no more than four (4) of which may be female), four (4) scaup, four (4) wood ducks, two (2) black ducks, four (4) redheads, four (4) hooded mergansers, two (2) canvasbacks and two (2) pintails.

(G) Geese may be taken from one-half (1/2) hour before sunrise to sunset as follows:

1. Blue, snow, and Ross's geese may be taken from October 28, 2006 through January 31, 2007, statewide.

2. White-fronted geese may be taken from November 24, 2006 through January 31, 2007, statewide.

3. Canada geese and brant may be taken from September 30, 2006 through October 9, 2006, and November 24, 2006 through January 31, 2007, statewide.

4. The daily bag limit is twenty (20) blue, snow or Ross's geese, one (1) brant and two (2) white-fronted geese, statewide. The possession limit for brant is two (2) and for white-fronted geese is four (4) and there is no possession limit for blue, snow and Ross's geese.

5. The daily bag limit is three (3) Canada geese from September 30, 2006 through October 9, 2006 and two (2) Canada geese thereafter. The possession limit is six (6) Canada geese from September 30, 2006 through October 9, 2006, and four (4) Canada geese thereafter.

6. Geese and brant may be taken by youth hunters in the North Zone from October 21, 2006 through October 22, 2006, in the Middle Zone from October 28, 2006 through October 29, 2006 and in the South Zone from November 18, 2006 through November 19, 2006. The daily bag limit is twenty (20) blue, snow, and Ross's geese, two (2) white-fronted geese, one (1) brant, and two (2) Canada geese. The possession limit for brant is two (2) and for white-fronted geese is four (4), and for Canada geese is four (4) and there is no possession limit for blue, snow, and Ross's geese.

7. Zones: The North Zone shall be that portion of the state north of a line running west from the Illinois border at Lock and Dam 25; west on Lincoln County Hwy. N to Mo. Hwy. 79; south on Mo. Hwy. 79 to Mo. Hwy. 47; west on Mo. Hwy. 47 to Interstate Hwy. 70; west on Interstate Hwy. 70 to the Kansas border. The South Zone shall be that portion of Missouri south of a line running west from the Illinois border on Mo. Hwy. 34 to Interstate Hwy. 55; south on Interstate Hwy. 55 to U.S. Hwy. 62; west on U.S. Hwy. 62 to Mo. Hwy. 53; north on Mo. Hwy. 53 to Mo. Hwy. 51; north on Mo. Hwy. 51 to U.S. Hwy. 60; west on U.S. Hwy. 60 to Mo. Hwy. 21; north on Mo. Hwy. 21 to Mo. Hwy. 72; west on Mo. Hwy. 72 to Mo. Hwy. 32; west on Mo. Hwy. 32 to U.S. Hwy. 65; north on U.S. Hwy. 65 to U.S. Hwy. 54; west on U.S. Hwy. 54 to the Kansas border. The Middle Zone shall be the remainder of Missouri.

(H) Shells possessed or used while hunting waterfowl and coots statewide, and for other wildlife as designated by posting on public areas, must be loaded with material approved as nontoxic by the United States Fish and Wildlife Service.

(I) The hunting season for blue, snow and Ross's geese closes on January 31, 2007, in order to implement a light goose Conservation Order.

1. Persons who possess a valid migratory bird permit may chase, pursue, and take blue, snow and Ross's geese between the hours of one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset from February 1 through April 30, 2007. Any other regulation notwithstanding, methods for the taking of blue, snow and Ross's geese include using shotguns capable of holding more than three (3) shells, and with the use or aid of recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds. Exceptions to the above permit requirement include landowners or lessees, as described in this code, and persons fifteen (15) years of age or younger, provided s/he is in the immediate presence of a properly licensed adult or has in his/her possession a valid hunter education certificate card. A daily bag limit will not be in effect February 1 through April 30, 2007.

SUMMARY OF PUBLIC COMMENT: Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed August 23, 2006, effective **September 11, 2006.**

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 7—Wildlife Code: Hunting: Seasons,
Methods, Limits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-7.455 is amended.

This amendment establishes hunting seasons and limits and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-7.455 by establishing season dates for spring turkey hunting season.

3 CSR 10-7.455 Turkeys: Seasons, Methods, Limits

PURPOSE: This amendment will change the opening date formula for spring turkey hunting season; and, will provide a more comprehensive description of recorded calls to include other electronic calls that could be used illegally to hunt turkeys. This amendment also prohibits the possession of such calls while hunting turkeys, providing consistency with other hunting rules.

(1) Turkeys may be pursued, taken, killed, possessed or transported only as permitted in this rule.

(A) Spring Season. Spring Season annually will begin on the third Monday in April. A person possessing the prescribed turkey hunting permit may take turkeys according to the season length and bag limit established annually by the Conservation Commission; except that a person at least six (6) but not older than fifteen (15) years of age who possesses a Youth Deer and Turkey Hunting Permit may take only one (1) male turkey or turkey with visible beard during the season. Turkeys may be taken only by shotgun with shot no larger than No. 4, or longbow, without the use of dogs, bait, electronic calls or live decoys, from one-half (1/2) hour before sunrise to 1:00 p.m. Central Daylight Time (CDT). Possession of electronic calls or shotshells loaded with shot larger than No. 4 is prohibited while hunting turkeys.

(B) Fall Firearms Season. Fall season annually will be October 1 through October 31. A person possessing the prescribed turkey hunting permit may take two (2) turkeys of either sex during the season; except that a person at least six (6) but not older than fifteen (15) years of age who possesses a Youth Deer and Turkey Hunting Permit may take only one (1) turkey of either sex during the season. Turkeys may be taken only by shotgun with shot no larger than No. 4 or longbow; without the use of dogs, bait, electronic calls or live decoys; from one-half (1/2) hour before sunrise to sunset in all counties except: Dunklin, McDonald, Mississippi, New Madrid, Newton, Pemiscot and Scott. Possession of electronic calls or shotshells loaded with shot larger than No. 4 is prohibited while hunting turkeys. A person, while in the act of pursuing or hunting turkey on a fall firearms permit, shall not have both a firearm and longbow on his/her person.

(C) Fall Archery Season. A person possessing the prescribed archer's hunting permit may take two (2) turkeys of either sex from September 15 through January 15, excluding the dates of the November portion of the firearms deer season. Turkeys may be taken only by longbow; without the use of dogs, bait, electronic calls or live decoys; from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset. An archer, while in the act of pursuing or hunting turkey on an archer's permit, shall not have a firearm on his/her person. Possession of electronic calls is prohibited while hunting turkeys.

(D) Youth Spring Season. The two (2)-day youth spring season will begin annually on the Saturday nine (9) days prior to the Monday opening of the spring season, except that when the youth season would overlap with Easter weekend the season will open on the Saturday prior to Easter weekend. A Missouri resident possessing a Youth Deer and Turkey Hunting Permit or the prescribed turkey hunting permit and who is at least six (6) but not older than fifteen (15) years of age on the opening day of the youth spring season may take only one (1) male turkey or turkey with visible beard during the youth spring season. A turkey harvested during the youth spring season will count towards an individual's spring season bag limit; individuals hunting under the prescribed turkey hunting permit may not harvest a second bird during the first week of the spring season. Turkeys may be taken only by shotgun with shot no larger than No. 4, or longbow, without the use of dogs, bait, electronic calls or live decoys, from one-half (1/2) hour before sunrise to 1:00 p.m. Central Daylight Time (CDT). Possession of electronic calls or shotshells loaded with shot larger than No. 4 is prohibited while hunting turkeys.

SUMMARY OF PUBLIC COMMENT: Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed August 23, 2006, effective **September 11, 2006**.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife:
Privileges, Permits, Standards**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-9.442 is amended.

This amendment establishes hunting seasons and limits and are excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-9.442 by adjusting the season for waterfowl hunting by falconers in 2006–2007 to conform to federal frameworks.

3 CSR 10-9.442 Falconry

PURPOSE: This amendment adjusts the season dates for hunting waterfowl by falconry for the 2006–2007 season as provided in the frameworks established by the U.S. Fish and Wildlife Service.

(2) Only designated types and numbers of birds of prey may be possessed and all these birds shall bear a numbered, nonreusable marker provided by the department. Birds held under a falconry permit may be used, without further permit, to pursue and take wildlife within the following seasons and bag limits:

(E) Ducks, mergansers and coots may be taken from one-half (1/2) hour before sunrise to sunset as follows: in the North Zone, September 9 through September 24, October 28 through December 26, and February 10 through March 10; in the Middle Zone, September 9 through September 24, November 4 through January 2, and February 10 through March 10; and, in the South Zone, September 9 through September 24, November 24 through January 22, and February 10 through March 10. Daily limit: three (3) birds singly or in the aggregate, including doves; possession limit: six (6) birds singly or in the aggregate, including doves.

SUMMARY OF PUBLIC COMMENTS: Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed August 23, 2006 effective **September 6, 2006**.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for
Areas Owned by Other Entities**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-12.135 is amended.

This amendment establishes fishing seasons and limits and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-12.135 by establishing a winter fishing season on Liberty Park Pond, Sedalia and Koeneman Park Lake, Jennings.

3 CSR 10-12.135 Fishing, Methods

PURPOSE: This amendment establishes a winter fishing season on Liberty Park Pond, Sedalia and Koeneman Park Lake, Jennings.

(7) Only flies, artificial lures and soft plastic baits (unscented) may be used from November 1 through January 31 on the following lakes:

- (A) Columbia (Cosmo-Bethel Lake)
- (B) Jackson (Rotary Lake)
- (C) Jefferson City (McKay Park Lake)
- (D) Jennings (Koeneman Park Lake)
- (E) Kirksville (Spur Pond)
- (F) Kirkwood (Walker Lake)
- (G) Mexico (Kiwanis Lake)
- (H) Overland (Wild Acres Park Lake)
- (I) Sedalia (Liberty Park Pond)
- (J) St. Louis City (Jefferson Lake)
- (K) St. Louis County (Tilles Park Lake)

(8) From November 1 through January 31, not more than one (1) pole and line may be used by one (1) person at any time and the use of natural or scented baits as chum is prohibited on the following lakes:

- (A) Ballwin (Vlasis Park Lake)
- (B) Ferguson (January-Wabash Park Lake)
- (C) Jackson (Rotary Lake)
- (D) Jennings (Koeneman Park Lake)
- (E) Kirkwood (Walker Lake)
- (F) Overland (Wild Acres Park Lake)
- (G) St. Louis City (Boathouse Lake, Jefferson Lake, O'Fallon Park Lake)
- (H) St. Louis County (Suson Park Lakes No. 1, 2, 3, Tilles Park Lake)

SUMMARY OF PUBLIC COMMENTS: Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed August 23, 2006, effective **November 1, 2006**.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for
Areas Owned by Other Entities**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-12.140 is amended.

This amendment establishes fishing seasons and limits and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-12.140 by establishing a winter catch and release trout fishery on Liberty Park Pond, Sedalia and Koeneman Park Lake, Jennings.

3 CSR 10-12.140 Fishing, Daily and Possession Limits

PURPOSE: This amendment establishes a winter catch and release trout fishery on Liberty Park Pond, Sedalia and Koeneman Park Lake, Jennings; and, eliminates regulations on Clifton Heights Park, St. Louis.

(2) The daily limit for black bass is two (2) on the following lakes:

(V) St. Louis City (Benton Park Lake, Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park North Lake, Willmore Park South Lake)

(4) The daily limit for carp is four (4) on the following lakes:

(C) St. Louis City (Benton Park Lake, Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park North Lake, Willmore Park South Lake)

(6) The daily limit for crappie is fifteen (15) on the following lakes:

(D) St. Louis City (Benton Park Lake, Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park North Lake, Willmore Park South Lake)

(11) The daily limit for fish other than those species listed as endangered in 3 CSR 10-4.111 or defined as game fish is twenty (20) in the aggregate, except on the following lakes where the daily limit is ten (10) in the aggregate, and except for those fish included in (4), (8), (9), and (10) of this rule:

(J) St. Louis City (Benton Park Lake, Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park North Lake, Willmore Park South Lake)

(12) Trout must be returned to the water unharmed immediately after being caught from November 1 through January 31 on the lakes listed below. Trout may not be possessed on these waters during this season.

- (A) Columbia (Cosmo-Bethel Lake)
- (B) Jackson (Rotary Lake)
- (C) Jefferson City (McKay Park Lake)
- (D) Jennings (Koeneman Park Lake)
- (E) Kirksville (Spur Pond)
- (F) Kirkwood (Walker Lake)
- (G) Mexico (Kiwanis Lake)
- (H) Overland (Wild Acres Park Lake)

- (I) Sedalia (Liberty Park Pond)
- (J) St. Louis City (Jefferson Lake)
- (K) St. Louis County (Tilles Park Lake)

(15) No person shall continue to fish for any species after having four (4) trout in possession, from February 1 through October 31, on the following lakes:

- (A) Jennings (Koeneman Park Lake)
- (B) Kirkwood (Walker Lake)
- (C) Overland (Wild Acres Park Lake)
- (D) St. Louis City (Jefferson Lake)
- (E) St. Louis County (Tilles Park Lake)

SUMMARY OF PUBLIC COMMENTS: Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed August 23, 2006, effective **November 1, 2006**.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for
Areas Owned by Other Entities

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-12.150 is amended.

This amendment establishes fishing seasons and limits and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-12.150 by permitting catch-and-release fishing in trout parks on Mondays during the winter season.

3 CSR 10-12.150 Fishing, Trout Parks

PURPOSE: This amendment permits catch-and-release fishing in trout parks on Mondays during the winter season.

(1) On Maramec Spring Park, Bennett Spring State Park, Montauk State Park and Roaring River State Park:

(D) Trout fishing is permitted from 8:00 a.m. to 4:00 p.m. on Fridays, Saturdays, Sundays and Mondays from the second Friday in November through the second Monday in February at Bennett Spring State Park, Montauk State Park and Roaring River State Park. Fishing in designated trout waters is permitted only by holders of a valid trout permit. Only flies may be used, and all fish must be returned to the water unharmed immediately after being caught. Fish may not be possessed on these waters.

(E) Trout fishing is permitted from 8:00 a.m. to 4:00 p.m. daily from the second Friday in November through the second Monday in February at Maramec Spring Park. Fishing is permitted only by holders of a valid trout permit. Only flies may be used and all fish must be returned to the water unharmed immediately after being caught. Fish may not be possessed on these waters.

SUMMARY OF PUBLIC COMMENTS: Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed August 23, 2006, effective **November 1, 2006**.

Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 1—Organization and Description of Board

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Accountancy under sections 326.256, 326.259.4, 326.262, 326.268.1 and 326.319, RSMo Supp. 2005, the board amends a rule as follows:

[4 CSR 10-1.010] **20 CSR 2010-1.010** is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published, as 4 CSR 10-1.010, in the *Missouri Register* on May 1, 2006 (31 MoReg 653). The section with changes is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The board received two (2) comments:

COMMENT: The board received two (2) comments regarding the addition of disciplinary actions of "practice rights" from Austin L. Mitchell, Pratt, Mitchell & Co. and Lloyd W. Schnieders, CPA, Grabel, Schnieders, Hollman & Co., PC. Mr. Mitchell submitted a comment stating that until such a definition is included in the statute, he believes the addition of such superintending control is beyond the scope of authority delegated by statute to the board. Mr. Schnieders stated the addition of sanction of practice rights is a very nebulous term when it comes to determining disciplinary action and requested the board clarify its meaning.

RESPONSE AND EXPLANATION OF CHANGE: Based on comments received, the decision of the board was to delete the term "practice rights" from subsection (5)(E) of the rule.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2010—Missouri State Board of Accountancy
Chapter 1—Organization and Description of Board

20 CSR 2010-1.010 General Organization

(5) The board has superintending control over the practice of accounting in Missouri and its primary duties consist of—

(E) Disciplinary action including sanction of certificates, licenses, and permits of certified public accountants and certified public accounting firms who have been found to have violated the provisions of Chapter 326, RSMo; and

Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 1—Organization and Description of Board

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Accountancy under sections 326.268 and 326.271, RSMo Supp. 2005, the board amends a rule as follows:

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2010—Missouri State Board of Accountancy
Chapter 1—Organization and Description of Board

[4 CSR 10-1.020] **20 CSR 2010-1.020** Board Compensation is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published, as 4 CSR 10-1.020, in the *Missouri Register* on May 1, 2006 (31 MoReg 653-654). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 1—Organization and Description of Board**

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Accountancy under sections 326.262 and 326.268, RSMo Supp. 2005, the board adopts a rule as follows:

[4 CSR 10-1.050] **20 CSR 2010-1.050** is adopted.

A notice of proposed rulemaking containing the text of the proposed amendment was published, as 4 CSR 10-1.050, in the *Missouri Register* on May 1, 2006 (31 MoReg 654-655). The section with changes to the proposed amendment is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The board received two (2) comments.

COMMENT: The board received two (2) comments regarding the addition of disciplinary actions of “practice rights” from Austin L. Mitchell, Pratt, Mitchell & Co. and Lloyd W. Schnieders, CPA, Grabel, Schnieders, Hollman & Co., PC. Mr. Mitchell submitted a comment regarding subpoena power stating to the extent delegating such power to the executive director is a delegation beyond the scope of the board’s authority. The statute, which grants limited subpoena power to the board, does not grant the board the authority to delegate such subpoena power. Particularly considering the absence of an accounting background of the current executive director, who is not qualified to determine whether additional documentation is required to further investigate a complaint or other matter, much less to determine what additional documentation should be produced. Accordingly, the current executive director has no way to ascertain whether a subpoena is necessary, and if so, what documentation should be obtained without first going to the board for such information. Mr. Schnieder comments opposing a rule change that permitted the executive director or his/her designee to issue a subpoena or summon without full board approve stating all of the board’s authority is then given to one person.

RESPONSE AND EXPLANATION OF CHANGE: Based on comments received the board felt having the board issue a subpoena or to summon individuals for the attendance and testimony of any witness more clearly stated their original intent. A change has been made to section (1).

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2010—Missouri State Board of Accountancy
Chapter 1—Organization and Description of Board**

20 CSR 2010-1.050 Board Subpoena Power

(1) The board shall have the power to issue a subpoena or to summon as necessary for the attendance and testimony of any witness, and shall have the power to issue a subpoena duces tecum for the production of any book, paper, document, or thing.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Accountancy under sections 326.256, 326.262, and 326.268, RSMo Supp. 2005, the board amends a rule as follows:

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2010—Missouri State Board of Accountancy
Chapter 2—General Rules**

[4 CSR 10-2.005] **20 CSR 2010-2.005** Definitions
is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published, as 4 CSR 10-2.005, in the *Missouri Register* on May 1, 2006 (31 MoReg 656). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Accountancy under sections 326.256.1(9) and 326.283.1(1), RSMo Supp. 2005, the board rescinds a rule as follows:

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2010—Missouri State Board of Accountancy
Chapter 2—General Rules**

[4 CSR 10-2.022] **20 CSR 2010-2.022** Provisional License to
Practice is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published, as 4 CSR 10-2.022, in the *Missouri Register* on May 1, 2006 (31 MoReg 656). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Accountancy under sections 326.256.1(9) and 326.283.1(1) and 326.286.3, RSMo Supp. 2005, the board adopts a rule as follows:

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2010—Missouri State Board of Accountancy
Chapter 2—General Rules**

[4 CSR 10-2.022] **20 CSR 2010-2.022** Provisional License to Practice and Practice Privilege **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published, as 4 CSR 10-2.022, in the *Missouri Register* on May 1, 2006 (31 MoReg 656-658). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Accountancy under sections 326.262 and 326.280.1, RSMo Supp. 2005, the board amends a rule as follows:

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2010—Missouri State Board of Accountancy
Chapter 2—General Rules**

[4 CSR 10-2.041] **20 CSR 2010-2.041** Eligibility Requirements for the CPA Examination **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published, as 4 CSR 10-2.041, in the *Missouri Register* on May 1, 2006 (31 MoReg 659). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Accountancy under sections 326.262 and 326.289, RSMo Supp. 2005, the board amends a rule as follows:

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2010—Missouri State Board of Accountancy
Chapter 2—General Rules**

[4 CSR 10-2.051] **20 CSR 2010-2.051** Registration of Certified Public Accounting Firms **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published, as 4 CSR 10-2.051, in the *Missouri Register* on May 1, 2006 (31 MoReg 659-660). No changes have been made to the text of the proposed amendment, so it is not reprinted

here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Accountancy under section 326.262, RSMo Supp. 2005, the board adopts a rule as follows:

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2010—Missouri State Board of Accountancy
Chapter 2—General Rules**

[4 CSR 10-2.065] **20 CSR 2010-2.065** Requirements for Licensure through Reciprocity **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published, as 4 CSR 10-2.065, in the *Missouri Register* on May 1, 2006 (31 MoReg 660-662). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Accountancy under sections 326.262, 326.286 and 620.010.15(2), RSMo Supp. 2005, the board amends a rule as follows:

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2010—Missouri State Board of Accountancy
Chapter 2—General Rules**

[4 CSR 10-2.070] **20 CSR 2010-2.070** Renewal of Licenses **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published, as 4 CSR 10-2.070, in the *Missouri Register* on May 1, 2006 (31 MoReg 663). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Accountancy under sections 326.262 and 326.289, RSMo Supp. 2005, the board amends a rule as follows:

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2010—Missouri State Board of Accountancy
Chapter 2—General Rules**

[4 CSR 10-2.072] **20 CSR 2010-2.072** Renewal of a Certified Public Accounting Firm Permit **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published, as 4 CSR 10-2.072, in the *Missouri Register* on May 1, 2006 (31 MoReg 663-664). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Accountancy under sections 326.262, 326.286, 326.310 and 326.316, RSMo Supp. 2005 and 620.149, RSMo 2000, the board amends a rule as follows:

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2010—Missouri State Board of Accountancy
Chapter 2—General Rules**

[4 CSR 10-2.075] **20 CSR 2010-2.075** Reinstatement of License to Practice **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published, as 4 CSR 10-2.075, in the *Missouri Register* on May 1, 2006 (31 MoReg 664). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Accountancy under sections 326.262, 326.268 and 326.286, RSMo Supp. 2005, the board rescinds a rule as follows:

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2010—Missouri State Board of Accountancy
Chapter 2—General Rules**

[4 CSR 10-2.130] **20 CSR 2010-2.130** Applications for Examination **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published, as 4 CSR 10-2.130, in the *Missouri Register* on May 1, 2006 (31 MoReg 664). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Accountancy under sections 326.262, 326.268 and 326.286, RSMo Supp. 2005, the board adopts a rule as follows:

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2010—Missouri State Board of Accountancy
Chapter 2—General Rules**

[4 CSR 10-2.130] **20 CSR 2010-2.130** Applications for Examination **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published, as 4 CSR 10-2.130, in the *Missouri Register* on May 1, 2006 (31 MoReg 664-666). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Accountancy under sections 326.262, 326.268, and 326.280, RSMo Supp. 2005, the board amends a rule as follows:

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2010—Missouri State Board of Accountancy
Chapter 2—General Rules**

[4 CSR 10-2.140] **20 CSR 2010-2.140** Granting of Credit for the Examination **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published, as 4 CSR 10-2.140, in the *Missouri Register* on May 1, 2006 (31 MoReg 667-668). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Accountancy under sections 326.262, 326.268, 326.280 and 326.286, RSMo Supp. 2005, the board rescinds a rule as follows:

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2010—Missouri State Board of Accountancy
Chapter 2—General Rules**

**[4 CSR 10-2.150] 20 CSR 2010-2.150 Examination
Procedures is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published, as 4 CSR 10-2.150, in the *Missouri Register* on May 1, 2006 (31 MoReg 668). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Accountancy under sections 326.262, 326.268, 326.280 and 326.286, RSMo Supp. 2005, the board adopts a rule as follows:

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2010—Missouri State Board of Accountancy
Chapter 2—General Rules**

**[4 CSR 10-2.150] 20 CSR 2010-2.150 Examination
Procedures is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published, as 4 CSR 10-2.150, in the *Missouri Register* on May 1, 2006 (31 MoReg 668-669). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Accountancy under sections 326.262, 326.271, 326.277, 326.280, 236.283,

326.286 and 326.289, RSMo Supp. 2005, the board amends a rule as follows:

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2010—Missouri State Board of Accountancy
Chapter 2—General Rules**

[4 CSR 10-2.160] 20 CSR 2010-2.160 Fees is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published, as 4 CSR 10-2.160, in the *Missouri Register* on May 1, 2006 (31 MoReg 669-671). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 45—Division of Mental Retardation and
Developmental Disabilities
Chapter 2—Eligibility for Services**

ORDER OF RULEMAKING

By the authority vested in the Department of Mental Health under section 630.050, RSMo 2000, the department adopts a rule as follows:

**9 CSR 45-2.015 Prioritizing Access to Funded Services
is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 1, 2006 (31 MoReg 704). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS. The Department of Mental Health received four (4) comments on the proposed rule from the following individuals: Fred Rich, Legal Aid of Western Missouri; Les Wagner, Boone County Family Resources; Cindy Langford, Connections Case Management; and Pete Breting, Camden County Senate Bill 40 Board.

COMMENT: Fred Rich, Legal Aid of Western Missouri, wrote in opposition stating the rule represents policy-making that should remain the province of the Missouri Legislature or the Department of Mental Health Commission. Mr. Rich further stated that prioritizing access to services should be based on the type and complexity of the client's disabling condition rather than the client's eligibility for a specific funding source and linking access to services to federal or state funding or programs holds a person otherwise eligible for service, hostage to changes in federal or state law.

RESPONSE: The department disagrees that the proposed rule is improper policy-making through rulemaking. The proposed rule is consistent with the department's authority under sections 630.050 and 633.110.2, RSMo. In addition, the proposed rule is necessary for the department to be compliant with Title II of the Americans with Disabilities Act (ADA) by demonstrating it has: 1) a comprehensive, effectively working plan for placing qualified persons with disabilities in less restrictive settings, and 2) a waiting list that moves at a reasonable pace. Needs of all individuals, regardless of eligibility for funding sources, are prioritized the same. No changes have been made to the rule as a result of this comment.

COMMENT: Les Wagner, Boone County Family Resources, expressed concern that county boards do not retain autonomy with regard to prioritizing access, reviewing individually planned services, and monitoring utilization.

RESPONSE: The department agrees county boards should have autonomy when it is the county board that is fully funding services. When county boards enter into intergovernmental agreements to administer state programs or state and federal Medicaid programs, the county board must administer the programs following the same procedures as do staff with the Division of Mental Retardation and Developmental Disabilities. The majority of services accessed through the Division of Mental Retardation and Developmental Disabilities are financed through Medicaid programs with federal, state and local funds. County boards with intergovernmental agreements that include administering aspects of federal Medicaid programs, have agreed to follow the same processes and procedures as do staff with the Division of Mental Retardation and Developmental Disabilities to assure federal compliance. No changes have been made to the rule as a result of this comment.

COMMENT: Cindy Langford, Connections Case Management, and Pete Breting, Camden County SB 40, expressed concern with the turnover process described in (7)(B), questioning if such openings take priority over placement for individuals not appropriate for the opening and if funds created by the opening may be used in another living arrangement and if individual preference is considered.

RESPONSE: Individual preference, choice and compatibility are taken into account when openings in an existing living arrangement occur. In most congregate living arrangements, the department maximizes service dollars by refilling existing openings. No changes have been made to the rule as a result of this comment.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 45—Division of Mental Retardation and
Developmental Disabilities
Chapter 2—Eligibility for Services**

ORDER OF RULEMAKING

By the authority vested in the Department of Mental Health under section 630.050, RSMo 2000, the department adopts a rule as follows:

9 CSR 45-2.017 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 1, 2006 (31 MoReg 704-714). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS. The department received seven (7) comments on the proposed rule from the following individuals: Peg Capo, Developmental Disabilities Resource Board of St. Charles County; Les Wagner, Boone County Family Resources; Fred Rich, Legal Aid of Western Missouri; Nancy Shrewsberry and Cris Rodriguez, Division of Mental Retardation and Developmental Disabilities; Pete Breting, Camden County Senate Bill 40 Board; and Cindy Langford, Connections Case Management.

COMMENT: Peg Capo, Developmental Disabilities Resource Board of St. Charles County, and Pete Breting, Camden County Senate Bill 40 Board, wrote in favor of the utilization review process. Mr. Breting noted the instrument measures what it is supposed to measure and criticisms of the process have more to do with how information from the process is used and the fact there are limited funds for services in general.

RESPONSE: The department concurs with the comments made and appreciates the comments in support of the proposed rule. No changes have been made to the rule as a result of this comment.

COMMENT: Fred Rich, Legal Aid of Western Missouri, wrote to provide constructive criticism to ensure the final rule is comprehensive. He suggested the rule be presented to Division of Mental Retardation and Developmental Disabilities ("division") constituencies and that regional public hearings be scheduled to solicit comment. Mr. Rich further stated access to division services should be based on the type and complexity of a person's disability and not the person's eligibility for a funding source.

RESPONSE: The department included a range of stakeholders on the workgroup that developed the utilization review process, which included parents, Senate Bill 40 Boards, and providers. The workgroup also reconvened to refine the process over a period of years. The process has been discussed with constituency groups and individuals and responsible parties have been provided information on the process as plans have been reviewed within the utilization review process. The department will make it a priority though to continue to evaluate the utilization review process and plans to seek input from stakeholders through a public process to discuss and develop future changes in the process. No changes have been made to the rule as a result of this comment.

COMMENT: Les Wagner, Boone County Family Resources, expressed concern that county boards did not have sufficient input during the process of establishing standards and guidelines and further stated county boards should have some measure of autonomy with regard to prioritizing access, reviewing individually planned services, and monitoring utilization.

RESPONSE: The department disagrees that county boards did not have sufficient input throughout the process. Peg Capo, Developmental Disabilities Resource Board of St. Charles County, served as co-chair of the utilization review workgroup as a representative of the Missouri Association of County Developmental Disability Services. The department agrees county boards should have complete autonomy when providing services wholly funded by the county. When county boards enter into intergovernmental agreements to administer state programs or state and federal Medicaid programs though, the county board must administer the programs following the same policies and procedures as does the state. No changes have been made to the rule as a result of this comment.

COMMENT: Fred Rich, Legal Aid of Western Missouri, and Cindy Langford, Connections Case Management, commented on emergency criteria in subsection (1)(E) of the rule and on page one (1) of the prioritization of need form. Mr. Rich suggested the criteria needed to be expanded to include: 1) the client cannot adequately provide for, or adequately communicate regarding his health care, food, shelter, and safety needs; and 2) the client is a minor who is "aging out" of family/juvenile court jurisdiction and/or (DSS), Children's Division care and custody and soon will meet one or more of the other criteria. Ms. Langford noted emergency criteria in subsection (1)(E) was not consistent with the emergency criteria on the prioritization of need form.

RESPONSE AND EXPLANATION OF CHANGE: The suggested "expanded criteria" are already encompassed within the seven (7) emergency criteria, thus the two (2) new categories suggested by Mr. Rich have not been added. The department agrees the emergency criteria on the prioritization of need form should be consistent with the emergency criteria in (1)(E) and has changed the form to correspond to the criteria listed in subsection (1)(E).

COMMENT: Fred Rich, Legal Aid of Western Missouri, suggested in subsection (1)(E) the word "individual" be changed to "client" here and throughout the rule; the term "health care" be added as an

example of immediate need; and the term “provision of those services” be changed to “providing those services.”

RESPONSE: The department finds the term individual is an appropriate term to use in the proposed rule rather than “client.” The criteria, protection from harm, can include immediate need for health care, thus the suggested changes have not been made. The department finds the term “provision of those services” as opposed to “providing those services” a matter of style that does not necessitate revision. No changes have been made to the rule as a result of this comment.

COMMENT: Peg Capo, Developmental Disabilities Resource Board of St. Charles County, and Cris Rodriguez, Division of Mental Retardation and Developmental Disabilities, suggested in subsection (1)(G) that the department should incorporate in the definition and department policy a means to fund services for individuals to prevent individuals from reaching emergency or crisis status.

RESPONSE: While the department agrees it should ideally be able to foresee imminent crisis and emergencies and provide preventive services, the department also has a responsibility to serve individuals with the greatest needs first. The utilization review process allows the needs of individuals to be rank ordered. The department continues to evaluate its service delivery system to improve access to service and will amend the rule in the future to support any system changes. The department plans to seek input from stakeholders through a public process to discuss and develop future changes in the process. No changes have been made to the rule as a result of this comment.

COMMENT: Fred Rich, Legal Aid of Western Missouri, suggested the term “responsible party,” a person who has the legal authority to make decisions for an individual, and the term “family” be clarified and used consistently.

RESPONSE: The department agrees the terms “family” and “responsible party” should be used consistently and believes that the proposed rule accomplishes this objective. No changes have been made to the rule as a result of this comment.

COMMENT: Nancy Shrewsberry, Division of Mental Retardation and Developmental Disabilities, suggested prioritization of need scores should not be assigned to services such as respite, nor should such services go on a waiting list. The commenter also suggested that an exception be made for individuals who are not Medicaid eligible.

RESPONSE: The department must meet the greatest needs when it has limited funding. The department believes that the scores are appropriately assigned. No changes have been made to the rule as a result of this comment.

COMMENT: Fred Rich, Legal Aid of Western Missouri, urged that membership on the Utilization Review Committees (URC) in section (2) include client, family, and responsible party representation.

RESPONSE: Individual clients, families and responsible parties are integral partners in the person centered planning process, which includes identifying the individual’s needs and how the needs will be met, and translating this information to a plan/budget to be reviewed by the URC. Each regional center is encouraged to include a parent or guardian representative and a Senate Bill 40 Board representative on the URC. With more than twenty-five thousand (25,000) individuals receiving services, it is not possible to schedule each individual client and/or responsible party to attend the URC meeting when their plan is reviewed. No changes have been made to the rule as a result of this comment.

COMMENT: Fred Rich, Legal Aid of Western Missouri, proposed in section (3) that the service coordinator meet with the “client, the client’s family, and, as appropriate, the client’s responsible party” to prepare a plan and budget.

RESPONSE AND EXPLANATION OF CHANGE: The department is revising section (3) to clarify the service coordinator will meet with the individual, and as appropriate, the responsible party in addition to the individual’s family.

COMMENT: Cindy Langford, Connections Case Management, in regard to section (3), questioned if there is a Medicaid requirement that will not allow a planning meeting to be earlier than forty-five (45) days prior to implementation of the plan, and in subsection (3)(A) inquired if the responsible party signs both the plan and the budget and if signing the budget indicates agreement with the content of the plan.

RESPONSE AND EXPLANATION OF CHANGE: Person Centered Planning Guidelines are followed by the department. Medicaid requirements do not prevent the planning process from beginning two (2) months prior to implementation of the plan. The responsible party signs the person centered plan but not the budget. The department has revised subsection (3)(A) for clarification that the plan shall be signed.

COMMENT: Fred Rich, Legal Aid of Western Missouri, recommended changes in section (7) to add that the final decision letter and the completed plan and budget shall be provided “within ten (10) days of the decision to the client and/or” responsible party, service coordinator and provider(s).

RESPONSE AND EXPLANATION OF CHANGE: The department agrees a timeline is desirable and is changing section (7) as recommended and is adding clarification regarding distribution of the final decision.

COMMENT: Fred Rich, Legal Aid of Western Missouri, suggests all persons served by the division should have access to the appeals process in section (9), and in sections (9), (9)(A), (10) and (10)(A), the individual and the individual’s “responsible party” must have authority to initiate appeals to either the Department of Mental Health or the Department of Social Services.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees that all persons denied eligibility for services should have appeal rights and that is provided for in section (9). Appeal rights are not available though when an individual is deemed eligible for services but is placed on a wait list, as set forth in 9 CSR 45-2.015, due to lack of available funding, because the department can only provide those services for which it has funding. Therefore, the suggested change has not been made. The department does agree that sections (9), (9)(A), (10) and (10)(A) should be clarified to give both the individual and the individual’s responsible party authority to appeal and has made changes in these sections and paragraphs accordingly.

COMMENT: Fred Rich, Legal Aid of Western Missouri, noted in section (11) that guidance from the service coordinator should be provided to the “client, family and the responsible party” in addition to the individual.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has made this suggested change.

COMMENT: Fred Rich, Legal Aid of Western Missouri, questioned the use of “typical lifestyle” on page two (2) of the Department of Mental Health—Utilization Review Checklist, suggesting the alternative term “focus on normalization and maximum integration into the community” be used.

RESPONSE: The department believes that the term “typical lifestyle” is appropriate and that individuals receiving services and families and responsible parties understand that phrase as it is used in the context of the utilization review process. No changes have been made to the rule as a result of this comment.

COMMENT: Fred Rich, Legal Aid of Western Missouri, recommended language be changed on page one (1) of the Department of

Mental Health, Prioritization of Need for Services/Supports form, in the box titled Category E to add “the client cannot adequately provide for, or adequately communicate regarding, his health care, food, shelter, and safety needs and the client is a minor who is ‘aging out’ of family/juvenile court jurisdiction and/or Department of Social Services (DSS), Children’s Division care and custody and soon will meet one or more of the other criteria herein.”

RESPONSE: The suggested expanded criteria are already covered within the seven (7) emergency criteria. No changes have been made to the rule as a result of this comment.

potentially available to support needs that are not approved through the URC process.

9 CSR 45-2.017 Utilization Review Process

(3) Two (2) months prior to the proposed plan and budget implementation, the service coordinator shall meet with the individual, the individual’s family, and as appropriate the individual’s responsible party to prepare a plan and budget with justification for the individual’s support needs.

(A) The initial plan and budget shall be agreed to and the plan shall be signed by the individual or responsible party. The service coordinator and the individual or responsible party shall receive a copy of the plan and budget prior to submission of the plan and budget to the URC.

(7) Upon final action by the regional center director or designee to approve, amend or disapprove a plan and budget, a copy of the final decision letter and the completed plan and budget shall be provided within ten (10) days of the decision to the individual and/or responsible party, service coordinator and provider(s) by regular mail, fax or hand delivery. If the regional center director or designee disapproves a plan and budget, the regional center director or designee shall include in the final decision letter the reasons for the disapproval or amendment.

(9) When the final decision, as set forth in section (8) above, results in any individual being denied service(s) based on a determination the individual is not eligible for the service(s) or adversely affects a waiver service for an individual, the individual and/or responsible party may appeal in accordance with the procedures set forth in 9 CSR 45-2.020(3)(C) and (5).

(A) An individual and/or responsible party participating in a Division Medicaid Waiver program has appeal rights through both the Department of Mental Health and the Department of Social Services. Those individuals may appeal to Department of Social Services before, during or after exhausting the Department of Mental Health appeal process. Once the appeal process through Department of Social Services begins, appeal rights through the Department of Mental Health cease. Individuals appealing to the Department of Social Services must do so in writing within ninety (90) days of written notice of the adverse action to request an appeal hearing. Requests for appeal to the Department of Social Services should be sent to: Division of Medical Services, Recipient Services Unit, PO Box 6500, Jefferson City, MO 65102-6500, or call Recipient Services Unit at 1-800-392-2161.

(10) If an individual and/or responsible party timely files an appeal of a final decision, services currently being provided under an existing plan of care will not be suspended, reduced or terminated pending a hearing decision unless the individual or legal representative requests in writing that services be suspended, reduced or terminated.

(A) The individual and/or responsible party may be responsible for repayment of any federal or state funds expended for services while the appeal is pending if the hearing decision upholds the director’s decision.

(11) The service coordinator shall provide guidance to the individual, family, and the responsible party about any alternative resources

DEPARTMENT OF MENTAL HEALTH Prioritization of Need for Services/Supports

Residential	In-Home Support
Consumer Name: _____ Case #: _____	
Service Coordinator: _____ Date Placed on Waiting List: _____	
Service #1 Category/Points: _____	
Service #2 Category/Points: _____	
Service #3 Category/Points: _____	
Additional Information: Date Scored: _____ URC Representative: _____	

In order to be on the prioritized waiting list for services/supports, the service/support *must be*:

- Identified as a need in a person-centered plan;
- Specifically related to the individual's disability (i.e., not something that would be needed regardless of the individual's disability); and
- Unavailable through natural support systems or other funding sources.

First, read through the categories, then:

- Pick the category that best describes each service need of the individual.
- Only one category can be selected per service. Prioritize this decision based on the service/support (*not* by person).
- Once a category has been selected, only compile the points for the selected category for each service.
- When the category points are tallied, transfer category letter and the total points to the top of this page.
- If Emergency or Health and Safety category is chosen the person-centered plan must reflect what safeguard and/or emergency measures have been put in place to address the concerns.

A service can only be prioritized or listed under one category, however, there can be more than one service in any category.

Points	CATEGORY: E Emergency (12 points) See 9 CSR 45-2.017(1)(E)
_____	<p>12 pts. This service/support is necessary due to the individual's emergency situation. An emergency situation is described as one of the following:</p> <ol style="list-style-type: none"> 1) The individual is in immediate need of life-sustaining services (food, shelter, protection from harm) and there is no alternative to Division funding or provision of those services. 2) The individual needs immediate services to protect another person(s) from imminent physical harm. 3) The individual currently resides in a public institution and has been assessed as able to live in a less restrictive arrangement in the community, the individual wants to live in the community, and appropriate services and supports can be arranged through the waiver. (Olmstead) 4) The individual is aging out of the Lopez Waiver and still requires substantial waiver services. (Does not include consumers that would be more appropriately served in the Physically Disabled Waiver) 5) The individual is in the care and custody of DSS Children's Division, which has a formal agreement in place with a division regional center to fund costs of waiver services for the specific individual. 6) The individual is under age 18 and requires coordinated services through several agencies to avoid court action. (System of Care)

	7) The individual is subject to ongoing or pending legal action and requires immediate delivery of services.
_____	Outcome #: _____ Service: _____ Frequency: _____ Cost: _____
_____	Outcome #: _____ Service: _____ Frequency: _____ Cost: _____
_____	Outcome #: _____ Service: _____ Frequency: _____ Cost: _____
Points	CATEGORY: H Health and Safety (5 to 12 points)
_____	5 pts. The service/support is necessary to ensure the health and safety of the individual or others, i.e., not providing the service/support will place the individual or others at risk of illness, injury, or harm.
	In order to be categorized as a health and safety need, the degree of risk must be greater than 50% chance without intervention.
_____	Add 1 point (+1 pt.) if degree of risk is imminent—definite and immediate.
_____	Add 2 points (+2 pt.) if individual has no permanent residence.
_____	Add points (maximum of 4) based on Physical/Behavioral Support Checklists. (pg. 3)
	Cumulative points for Category Health and Safety. (Not to exceed 12)
_____	Outcome #: _____ Service: _____ Frequency: _____ Cost: _____
_____	Outcome #: _____ Service: _____ Frequency: _____ Cost: _____
_____	Outcome #: _____ Service: _____ Frequency: _____ Cost: _____

Points	CATEGORY: F Family Support (4 to 11 points)
_____	4 pts. The service/support is necessary to help the family care for their family member in their home or family support is not available.
_____	Add points (maximum of 4) based on Physical/Behavioral Support Checklists. (pg. 4)
_____	Add points (maximum of 3) for other family circumstances. Mark as many as applicable to get a full picture of the family need, however, can only add 3 points.
_____	+ 3 pts. Death of primary caregiver.
_____	+ 3 pts. Primary caregiver has a terminal diagnosis.
_____	+ 2 pts. Primary caregiver has other chronic health conditions that significantly impact his/her ability to provide needed supports for the person.
_____	+ 2 pts. Primary caregiver over age 75.
_____	+ 1 pt. Primary caregiver over age 65.
_____	+ 1 pt. Single parent family.
_____	+ 1 pt. Recent (within past 6 mos.) divorce or separation.
_____	+ 1 pt. More than one family member eligible for MRDD services.
_____	+ 1 pt. At least 3 children under the age of 10 living in the home.
_____	+ 1 pt. Recent (within past 6 mos.) unplanned loss of employment.
_____	+ 1 pt. Primary caregiver at risk of job loss to provide care for the person in the home.
	Cumulative points for Category Family Support. (Not to exceed 11)
_____	Outcome #: _____ Service: _____ Frequency: _____ Cost: _____
_____	Outcome #: _____ Service: _____ Frequency: _____ Cost: _____
_____	Outcome #: _____ Service: _____ Frequency: _____ Cost: _____

Points	CATEGORY: D Daily Living Supports (4 to 6 points)
_____	4 pts. The service/support is necessary to help the individual perform activities of daily living, e.g., communication, mobility, self-care, etc. or to assist an individual with independent living or developing the skills necessary to do so. Examples include personal assistance, supported employment, habilitation training, therapy services (including Applied Behavior Analysis), specialized medical equipment and supplies, and environmental accessibility adaptations.
_____	Add points if the individual currently lives independently (i.e., is not receiving residential services, including ISL) and is at risk of moving to a more restrictive setting or of losing a degree of independence without the service/support requested. + 2 pts. Immediate (within 30 days). + 1 pt. Prospective (likely within 1 year).
_____	Cumulative points for Category Daily Living Supports. (Not to exceed 6)
_____	Outcome #: _____ Service: _____ Frequency: _____ Cost: _____
_____	Outcome #: _____ Service: _____ Frequency: _____ Cost: _____
_____	Outcome #: _____ Service: _____ Frequency: _____ Cost: _____

Points	CATEGORY: I Inclusion and/or Recreational Supports (In-Home Supports Only)
_____	2 pts. Service/support is necessary to address barriers that might keep the person individual from fully participating in his/her community and/or recreational activities.
_____	Outcome #: _____ Service: _____ Frequency: _____ Cost: _____
_____	Outcome #: _____ Service: _____ Frequency: _____ Cost: _____
_____	Outcome #: _____ Service: _____ Frequency: _____ Cost: _____

There are no other contributors to Category Inclusion and/or Recreational Supports.

Points	CATEGORY: L Long Term Planning: This category is either 2 pts OR 1 pt
_____	2 pts. Individual is receiving residential services from an alternative funding source (Children's Division or DMH-CPS). Current residential situation has a time limitation or age restriction and individual has no natural home in which to return or the individual is receiving residential services from DMH but needs enhanced or alternative services (Rescore service need 6 months prior to time limited funds ending)
_____	OR
_____	1 pt Family has long term planning needs, e.g. knows that they want placement sometime in the future.
_____	Outcome #: _____ Service: _____ Frequency: _____ Cost: _____
_____	Outcome #: _____ Service: _____ Frequency: _____ Cost: _____
_____	Outcome #: _____ Service: _____ Frequency: _____ Cost: _____

There are no other contributors to Category Long Term Planning

Complete both Checklists on this page as they pertain to either Category Health and Safety or Family Support:

- Check every applicable event to create a clear picture of the situation.
- A maximum of 2 points from each section can be allocated to the category, for a total of 4 points, even though more may apply.
- If there is only 1 contributing point in the Behavioral Checklist, but three or more points in the Physical Checklist, you cannot count a total of 4 points. Only 2 points per checklist.
- When the checklist points are tallied, transfer total points to appropriate category.
- Unless otherwise noted, the behavioral or physical need identified must have occurred within the last year.

Points	BEHAVIORAL SUPPORTS CHECKLIST	
2pt max.	___ +1 pt.	Made threats verbally and/or physically(with reasonable threat of physical harm).
	___ +1 pt.	Destroyed property.
	___ +1 pt.	Ran away (elopement) or leaves area of safety and supervision.
	___ +1 pt.	Abused alcohol and/or substances.
	___ +1 pt.	2 or more medications used to treat mental illness and/or for behavioral control.
	___ +1 pt.	Compulsive/Ritualistic behavior that significantly interferes with the person's and family's daily routines.
	___ +2 pts.	Harmed himself or herself.
	___ +2 pts.	Harmed others (includes animals).
	___ +2 pts.	Ingested toxic and/or non-food substances or dangerous food/liquid quantities.
	___ +2 pts.	Made a suicide attempt or threat.
	___ +2 pts.	Set fires
	___ +2 pts.	Been sexually aggressive.
	___ +2 pts.	Physical restraint used in last 6 months.
	___ +2 pts.	Awake overnight.
Points	PHYSICAL SUPPORTS CHECKLIST	
2pt max.	___ +1 pt.	Chronic pain.
	___ +1 pt.	Significant weight loss or gain (5% of body weight within last 30 days or 10% within last 6 months).
	___ +1 pt.	Legally blind requiring assistive measures even in familiar settings.
	___ +1 pt.	Legally deaf making interactive communication difficult for caregiver or requiring specialized equipment.
	___ +2 pts.	Frequent illnesses that interfere with the individual's and family's daily routines.
	___ +2 pts.	Frequent injuries and/or falls that require medical attention.
	___ +2 pts.	Seizures—frequent and uncontrolled and/or that required emergency hospitalization within the last year.
	___ +2 pts.	Suctioning, tracheotomy, oxygen therapy, ventilator.
	___ +2 pts.	Choking/choking precautions.
	___ +2 pts.	Tube feeding and/or spoon feeding by caregiver.
	___ +2 pts.	Incontinence; daily catheterization and/or bowel care.
	___ +2 pts.	Individual requires lifting for transfer that is difficult for caregiver(s).
	___ +2 pts.	Orthopedic conditions—scoliosis, hip dysplasia, contractures, etc.
	___ +2 pts.	Skin breakdowns.

___ Total points of both categories that can be allocated to chosen category. Not to exceed 4.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 5—Air Quality Standards and Air Pollution
Control Rules Specific to the St. Louis Metropolitan
Area**

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

10 CSR 10-5.300 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2006 (31 MoReg 714-719). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program (APCP) received comments from the U.S. Environmental Protection Agency (EPA), The Boeing Company, the U.S. Department of Energy National Nuclear Security Administration, Safety-Kleen Systems, Inc. and a former 10 CSR 10-5.300 workgroup member.

COMMENT: EPA commented that the term—approved by the director—is added several times throughout this rule revision. Because the rule would allow alternative control measures to those contained in the EPA-approved state implementation plan, the rule text should be revised to—approved by the director and EPA.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, the director approval language throughout the rule has been revised to include EPA approval.

COMMENT: EPA commented that the proposed revision to remove the requirement for owners and operators of equipment to keep monthly records of the solvent types, amounts purchased, and amount of solvent consumed could affect the approvability of the rule revision into the State Implementation Plan (SIP). If the department's Air Pollution Control Program does not retain the timing requirement, EPA believes that another mechanism should be utilized to ensure compliance with the rule.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, the rule language has been revised in subsection (4)(A) of this rule to require the records to be kept current and made available for review on a monthly basis.

COMMENT: EPA commented that this rule is included in Missouri's 15% Rate of Progress Plan for the one (1)-hour ozone standard in St. Louis and the department's Air Pollution Control Program is required to provide a demonstration that these proposed rule revisions will not negatively impact the ability of St. Louis to attain the ozone standard.

RESPONSE: The department's Air Pollution Control Program plans to prepare the required demonstration to show that this rule revision will not interfere with reasonable further progress or attainment of the eight (8)-hour ozone standard. The demonstration will be included in the department's request for EPA to include the amended rule in the Missouri SIP. No rule text changes were made as a result of this comment.

Due to similar support addressed in the following two (2) comments, one (1) response can be found at the end of these two (2) comments: **COMMENT:** The Boeing Company commented that they support the many technical and editorial revisions in this proposed rulemaking. These revisions will eliminate unnecessary rule complexity and

address uncertainties of interpretation and applicability that surfaced during Title V self-certifications and discussions with agency inspectors and other regulated facilities.

COMMENT: The U.S. Department of Energy National Nuclear Security Administration commented that they support the proposed rulemaking that is protective of the environment and makes sense to industry.

RESPONSE: The department's Air Pollution Control Program appreciates this support for the proposed rulemaking. We also recognize that all the time and effort the workgroup expended to develop the language in this proposed rulemaking will result in more easily understood rule requirements. No rule text changes were made as a result of these comments.

COMMENT: The Boeing Company and the U.S. Department of Energy National Nuclear Security Administration commented that rather than the rule requiring that a permanent conspicuous label summarizing operating procedures be affixed to the equipment the rule should be revised to be affixed to the equipment or readily visible during operation. This would meet the intent of the rule requirement to remind operators of the operating procedures but allow other visible label locations that are less likely to render the label unreadable.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, subparagraphs (3)(A)1.I., (3)(A)2.D., (3)(A)3.E. and (3)(A)4.A. of the rule text have been revised to accommodate more readily visible label locations.

COMMENT: Safety-Kleen Systems, Inc. and a former 10 CSR 10-5.300 workgroup member commented that the proposed rulemaking does not allow spray gun cleaners to use solvents with vapor pressures used to clean solvent-based paints from paint spray guns. These solvents are much different than solvents used in degreasing operations and should be exempt from the rule.

RESPONSE AND EXPLANATION OF CHANGE: Existing rule language is confusing because the spray gun requirements are listed under cold cleaners which have solvent vapor pressure requirements. This proposed amendment lists spray gun requirements separately from the cold cleaner requirements and is intended to place solvent vapor pressure requirements only on cold cleaners. To avoid confusion, the reference to open-top vapor degreasers in subparagraph (1)(D)2.B. has been removed to clarify that this rule only has requirements for vapor pressure limits on cold cleaners that do not meet the exemption requirements. However, it should be noted that solvent metal cleaning operations are still applicable to the federal National Emission Standard for Hazardous Air Pollutants.

COMMENT: Safety-Kleen Systems, Inc. commented that the department should reconsider the definitions in this rule and, in particular, the soils definition which seems to be the only reason to include spray gun activity in the solvent metal cleaning rule. It was noted that paint spray gun cleaning is not regulated under the model solvent metal cleaning rule developed by the Ozone Transport Commission (OTC) and that other areas of the country used these model rules for requirements.

RESPONSE: The solvent metal cleaning workgroup met several times between May 2002 and May 2005 to develop the proposed rule text. Discussions included review of all definitions including existing, proposed changes and new additions. The OTC model rules were included in these discussions as well as reviewing other state rule requirements. No rule text changes were made as a result of this comment.

COMMENT: Safety-Kleen Systems, Inc. commented that some issues in the evidence letters supporting this proposed rulemaking are still unaddressed.

RESPONSE: The solvent metal cleaning workgroup met several times between May 2002 and May 2005 to discuss and focus on

issues and concerns to develop the proposed amendment language. The evidence letters were used as the basis for those discussions and all issues in the letters were discussed at great length. The language in this proposed amendment was mutually negotiated with affected industries, the U.S. Environmental Protection Agency and the department's regional offices. No rule text changes were made as a result of this comment.

Due to similar concerns addressed in the following two (2) comments, one (1) response that addresses these concerns can be found at the end of these two (2) comments:

COMMENT: Safety-Kleen Systems, Inc. commented that this proposed rulemaking should not be adopted so that consideration can be given to determining whether it is appropriate to include paint spray gun cleaning under the current solvent metal cleaning rule.

COMMENT: A former 10 CSR 10-5.300 workgroup member commented that incorporating paint spray gun cleaning equipment into the solvent metal cleaning rule has lead to confusion and a separate rule should be established for paint spray gun cleaning equipment.

RESPONSE: This significant issue was discussed in workgroup discussions and the consensus of the workgroup was that it was acceptable to include paint spray gun cleaning under the solvent metal cleaning rule as long as the changes proposed were incorporated to clarify these requirements. No rule text changes were made as a result of this comment. However, this does not rule out the possibility that at some future date a separate rule could be developed for paint spray gun cleaning.

COMMENT: A former 10 CSR 10-5.300 workgroup member commented that the inclusion of the definition for flush cleaning in this rule is confusing because spray gun cleaning could fall under this definition and, therefore, be exempt from this rule under subparagraph (1)(D)1.F.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, language was added to the flush cleaning definition in subsection (2)(E) to clarify that the definition does not include spray gun cleaning.

10 CSR 10-5.300 Control of Emissions From Solvent Metal Cleaning

(1) Applicability.

(D) Exemptions.

1. The following shall be exempt from this rule:

A. Cold cleaners with liquid surface areas of one (1) square foot or less or maximum capacities of one (1) gallon or less;

B. Solvent cleaning operations that meet the emission control requirements of 10 CSR 10-5.295, 10 CSR 10-5.330, 10 CSR 10-5.340 or 10 CSR 10-5.442;

C. Solvent metal cleaning operations regulated under 40 CFR 63 subpart T, National Emission Standards for Halogenated Solvent Cleaning;

D. The cleaning of electronic components, medical devices or optical devices;

E. Hand cleaning/wiping operations; and

F. Flush cleaning operations.

2. The following shall be exempt from the solvent vapor pressure requirements of subparagraphs (3)(A)1.A. and (3)(A)1.B. of this rule:

A. Sales of cold cleaning solvents in quantities of five (5) gallons or less;

B. Cold cleaners using solvents regulated under any federal National Emission Standard for Hazardous Air Pollutants; and

C. Janitorial and institutional cleaning.

3. All wastes that are subject to hazardous waste requirements at 10 CSR Division 25, Chapters 4 through 9 shall be exempt from the requirements of subparagraphs (3)(B)1.E., (3)(B)2.J., (3)(B)3.G., (3)(B)4.B. and (3)(B)5.G., and subsection (4)(A) of this rule.

(2) Definitions.

(E) Flush cleaning—The removal of contaminants such as dirt, grease and coatings from a component or coating equipment by passing solvent over, into or through the item being cleaned. The solvent drained from the item may be assisted by air, compressed gas, hydraulic pressure or by pumping. Flush cleaning does not include spray gun cleaning.

(3) General Provisions.

(A) Equipment Specifications.

1. Cold cleaners.

A. No one shall use, sell or offer for sale for use within the City of St. Louis and St. Charles, St. Louis, Jefferson and Franklin Counties a cold cleaning solvent with a vapor pressure greater than 1.0 mmHg (0.019 psi) at twenty degrees Celsius (20°C) (sixty-eight degrees Fahrenheit (68°F)) unless used for carburetor cleaning.

B. No one shall use, sell or offer for sale for use within the City of St. Louis and St. Charles, St. Louis, Jefferson and Franklin Counties a cold cleaning solvent for the purpose of carburetor cleaning with a vapor pressure greater than 5.0 mmHg (0.097 psi) at twenty degrees Celsius (20°C) (sixty-eight degrees Fahrenheit (68°F)).

C. Each cold cleaner shall have a cover which prevents the escape of solvent vapors from the solvent bath while in the closed position or an enclosed reservoir which limits the escape of solvent vapors from the solvent bath whenever parts are not being processed in the cleaner.

D. An owner or operator of a cold cleaner may use an alternate method for reducing cold cleaning emissions if the owner or operator shows the level of emission control is equivalent to or greater than the requirements of subparagraphs (3)(A)1.A. and (3)(A)1.B. of this rule. This alternate method must be approved by the director and the U.S. Environmental Protection Agency (EPA).

E. When one (1) or more of the following conditions exist, the cover shall be designed to operate easily such that minimal disturbing of the solvent vapors in the tank occurs. (For covers larger than ten (10) square feet, this shall be accomplished by either mechanical assistance such as spring loading or counter weighing or by power systems):

(I) The solvent vapor pressure is greater than 0.3 psi measured at thirty-seven point eight degrees Celsius (37.8°C) (one hundred degrees Fahrenheit (100°F));

(II) The solvent is agitated; or

(III) The solvent is heated.

F. Each cold cleaner shall have an internal drainage facility so that parts are enclosed under the cover while draining.

G. If an internal drainage facility cannot fit into the cleaning system and the solvent vapor pressure is less than 0.6 psi measured at thirty-seven point eight degrees Celsius (37.8°C) (one hundred degrees Fahrenheit (100°F)), then the cold cleaner shall have an external drainage facility which provides for the solvent to drain back into the solvent bath.

H. Solvent sprays, if used, shall be a solid fluid stream (not a fine, atomized or shower-type spray) and at a pressure which does not cause splashing above or beyond the freeboard.

I. A permanent conspicuous label summarizing the operating procedures shall be affixed to the equipment or in a location readily visible during operation of the equipment.

J. Any cold cleaner which uses a solvent that has a solvent vapor pressure greater than 0.6 psi measured at thirty-seven point eight degrees Celsius (37.8°C) (one hundred degrees Fahrenheit (100°F)) or heated above forty-eight point nine degrees Celsius (48.9°C) (one hundred twenty degrees Fahrenheit (120°F)) must use one (1) of the following control devices:

(I) A freeboard ratio of at least 0.75;

(II) Water cover (solvent must be insoluble in and heavier than water); or

(III) Other control systems with a mass balance demonstrated overall VOC emissions reduction efficiency greater than or equal to sixty-five percent (65%). These control systems must receive approval from the director and EPA prior to their use.

2. Open-top vapor degreasers.

A. Each open-top vapor degreaser shall have a cover that will prevent the escape of solvent vapors from the degreaser while in the closed position and shall be designed to open and close easily such that minimal disturbing of the solvent vapors in the tank occurs. For covers larger than ten (10) square feet, easy cover use shall be accomplished by either mechanical assistance, such as spring loading or counter weighing or by power systems.

B. Each open-top vapor degreaser shall be equipped with a vapor level control device that shuts off the heating source when the vapor level rises above the cooling or condensing coil, or an equivalent safety device approved by the director and EPA.

C. Each open-top vapor degreaser with an air/vapor interface over ten and three-fourths (10 3/4) square feet shall be equipped with at least one (1) of the following control devices:

(I) A freeboard ratio of at least 0.75;

(II) A refrigerated chiller;

(III) An enclosed design (the cover or door opens only when the dry part actually is entering or exiting the degreaser);

(IV) A carbon adsorption system with ventilation of at least fifty (50) cubic feet per minute per square foot of air vapor area when the cover is open and exhausting less than twenty-five parts per million (25 ppm) of solvent by volume averaged over one (1) complete adsorption cycle as measured using the reference method specified at 10 CSR 10-6.030(14)(A); or

(V) A control system with a mass balance demonstrated overall VOC emissions reduction efficiency greater than or equal to sixty-five percent (65%) and prior approval by the director and EPA.

D. A permanent conspicuous label summarizing the operating procedures shall be affixed to the equipment or in a location readily visible during operation of the equipment.

3. Conveyorized degreasers.

A. Each conveyorized degreaser shall have a drying tunnel or rotating (tumbling) basket or other means demonstrated to have equal to or better control which shall be used to prevent cleaned parts from carrying out solvent liquid or vapor.

B. Each conveyorized degreaser shall have the following safety devices which operate if the machine malfunctions:

(I) A vapor level control device that shuts off the heating source when the vapor level rises just above the cooling or condensing coil; and

(II) A spray safety switch, which shuts off the spray pump if the vapor level in the spray chamber drops four inches (4"), for conveyorized degreasers utilizing a spray chamber; or

(III) Equivalent safety devices approved by the director and EPA.

C. Entrances and exits shall silhouette workloads so that the average clearance between parts and the edge of the degreaser opening is less than four inches (4") or less than ten percent (10%) of the width of the opening.

D. Covers shall be provided for closing off the entrance and exit during hours when the degreaser is not being used.

E. A permanent, conspicuous label summarizing the operating procedures shall be affixed to the equipment or in a location readily visible during operation of the equipment.

F. If the air/vapor interface is larger than twenty-one and one-half (21 1/2) square feet, one (1) major control device shall be required. This device shall be one (1) of the following:

(I) A refrigerated chiller;

(II) Carbon adsorption system with ventilation of at least fifty (50) cubic feet per minute per square foot of the total entrance and exit areas (when downtime covers are open) and exhausting less than twenty-five (25) ppm of solvent by volume averaged over one (1) complete adsorption cycle as measured using the reference method specified at 10 CSR 10-6.030(14)(A); or

(III) A control system with a mass balance demonstrated overall VOC emissions reduction efficiency greater than or equal to sixty-five percent (65%) and prior approval by the director and EPA.

4. Air-tight or airless cleaning systems. Air-tight or airless cleaning systems shall:

A. Have a permanent conspicuous label summarizing the operating procedures affixed to the equipment or in a location readily visible during operation of the equipment;

B. Be equipped with a differential pressure gauge to indicate the sealed chamber pressure under vacuum; and

C. Be equipped with a safety alarm to alert the operator of equipment malfunction.

(B) Operating Procedure Requirements.

1. Cold cleaners.

A. Cold cleaner covers shall be closed whenever parts are not being handled in the cleaners or the solvent must drain into an enclosed reservoir except when performing maintenance or collecting solvent samples.

B. Cleaned parts shall be drained in the freeboard area for at least fifteen (15) seconds or until dripping ceases, whichever is longer. Parts having cavities or blind holes shall be tipped or rotated while the part is draining. During the draining, tipping or rotating, the parts shall be positioned so that the solvent drains directly back to the cold cleaner.

C. Whenever a cold cleaner fails to perform within the rule operating requirements, the unit shall be shut down immediately and shall remain shut down until operation is restored to meet the rule operating requirements.

D. Solvent leaks shall be repaired immediately or the cold cleaner shall be shut down until the leaks are repaired.

E. Any waste material removed from a cold cleaner shall be disposed of by one (1) of the following methods or an equivalent method approved by the director and EPA:

(I) Reduction of the waste material to less than twenty percent (20%) VOC solvent by distillation and proper disposal of the still bottom waste; or

(II) Stored in closed containers for transfer to—

(a) A contract reclamation service; or

(b) A disposal facility approved by the director and EPA.

F. Waste solvent shall be stored in closed containers only.

2. Open-top vapor degreasers.

A. The cover shall be kept closed at all times except when processing workloads through the open-top vapor degreaser, performing maintenance or collecting solvent samples.

B. Solvent carry-out shall be minimized in the following ways:

(I) Parts shall be racked, if practical, to allow full drainage;

(II) Parts shall be moved in and out of the open-top vapor degreaser at less than eleven feet (11') per minute;

(III) Workload shall remain in the vapor zone at least thirty (30) seconds or until condensation ceases, whichever is longer;

(IV) Pools of solvent shall be removed from cleaned parts before removing parts from the open-top vapor degreaser freeboard area; and

(V) Cleaned parts shall be allowed to dry within the open-top vapor degreaser freeboard area for at least fifteen (15) seconds or until visually dry, whichever is longer.

C. Porous or absorbent materials such as cloth, leather, wood or rope shall not be degreased.

D. If workloads occupy more than half of the open-top vapor degreaser's open-top area, rate of entry and removal shall not exceed five feet (5') per minute.

E. Spray shall never extend above vapor level.

F. Whenever an open-top vapor degreaser fails to perform within the rule operating requirements, the unit shall be shut down until operation is restored to meet the rule operating requirements.

G. Solvent leaks shall be repaired immediately or the open-top vapor degreaser shall be shut down until the leaks are repaired.

H. Ventilation exhaust from the open-top vapor degreaser shall not exceed sixty-five (65) cubic feet per minute per square foot of the open-top vapor degreaser open area unless proof is submitted

that it is necessary to meet Occupational Safety and Health Administration (OSHA) requirements. Fans shall not be used near the open-top vapor degreaser opening.

I. Water shall not be visually detectable in solvent exiting the water separator, except for automatic water separators that by configuration do not allow visual inspection.

J. Any waste material removed from an open-top vapor degreaser shall be disposed of by one (1) of the following methods or an equivalent method approved by the director and EPA:

(I) Reduction of the waste material to less than twenty percent (20%) VOC solvent by distillation and proper disposal of the still bottom waste; or

(II) Stored in closed containers for transfer to—

(a) A contract reclamation service; or

(b) A disposal facility approved by the director and EPA.

K. Waste solvent shall be stored in closed containers only.

3. Conveyorized degreasers.

A. Ventilation exhaust from the conveyorized degreaser shall not exceed sixty-five (65) cubic feet per minute per square foot of conveyorized degreaser opening unless proof is submitted that it is necessary to meet OSHA requirements. Fans shall not be used near the conveyorized degreaser opening.

B. Solvent carry-out shall be minimized in the following ways:

(I) Parts shall be racked, if practical, to allow full drainage; and

(II) Vertical conveyor speed shall be maintained at less than eleven feet (11') per minute.

C. Whenever a conveyorized degreaser fails to perform within the rule operating requirements, the unit shall be shut down immediately and shall remain shut down until operation is restored to meet the rule operating requirements.

D. Solvent leaks shall be repaired immediately or the conveyorized degreaser shall be shut down until the leaks are repaired.

E. Water shall not be visually detectable in solvent exiting the water separator.

F. Covers shall be placed over entrances and exits immediately after conveyor and exhaust are shut down and removed just before they are started up.

G. Any waste material removed from a conveyorized degreaser shall be disposed of by one (1) of the following methods or an equivalent method approved by the director and EPA:

(I) Reduction of the waste material to less than twenty percent (20%) VOC solvent by distillation and proper disposal of the still bottom waste; or

(II) Stored in closed containers for transfer to—

(a) A contract reclamation service; or

(b) A disposal facility approved by the director and EPA.

H. Waste solvent shall be stored in closed containers only.

4. Spray gun cleaners.

A. Cleaning of spray guns shall be accomplished by use of one (1) or more of the following methods:

(I) Enclosed spray gun cleaning. Enclosed system spray gun cleaning shall consist of forcing solvent through the spray gun and/or spray gun parts. Spray guns and/or spray gun parts shall only be cleaned in remote closed top spray gun cleaning machines under the following conditions:

(a) The spray gun cleaning machine is operated within the manufacturer's specifications and with the lid kept tightly closed at all times except when being accessed or maintained; and

(b) Removable containers (which shall not exceed thirty (30) gallons in size) for clean, used and waste solvent, are kept tightly closed except when being accessed or maintained;

(II) Nonatomized spray gun cleaning. Nonatomized spray gun cleaning shall consist of placing solvent in the pressure pot and forcing it through the spray gun with the atomizing cap in place. Spray guns shall only be cleaned through nonatomized spray gun cleaning under the following conditions:

(a) No atomizing air shall be used; and

(b) The cleaning solvent from the spray gun shall be directed into a pail, bucket, drum or other waste container that is closed when not in use;

(III) Disassembled spray gun cleaning. Disassembled spray gun cleaning shall be accomplished by disassembling the spray gun to be cleaned and cleaning the components by one (1) of the following methods:

(a) By hand in a spray gun cleaner, which shall remain closed except when in use; or

(b) By soaking in a spray gun cleaner, which shall remain closed during the soaking period and when not inserting or removing components; or

(IV) Atomized spray gun cleaning. Atomized spray gun cleaning shall consist of forcing the cleaning solvent through the gun and directing the resulting atomized spray into a waste container that is fitted with a device designed to capture the atomized cleaning solvent emissions. Cleaning of the nozzle tips of an automated spray equipment system is exempt from the requirements of paragraph (3)(B)4. of this rule, unless the system is a robotic system that is programmed to spray into a closed container.

B. Any waste material removed from a spray gun cleaning system shall be disposed of by one (1) of the following methods or an equivalent method approved by the director and EPA:

(I) Reduction of the waste material to less than twenty percent (20%) VOC solvent by distillation and proper disposal of the still bottom waste; or

(II) Stored in closed containers for transfer to—

(a) A contract reclamation service; or

(b) A disposal facility approved by the director and EPA.

C. Waste solvent shall be stored in closed containers only.

5. Air-tight and airless cleaning systems.

A. Operate the air-tight and airless cleaning systems with a door or other pressure sealing apparatus in place during all cleaning and drying cycles.

B. All associated pressure relief devices shall not allow liquid solvent to drain out of the equipment.

C. Solvent leaks shall be repaired immediately or the air-tight or airless cleaning system shall be shut down until the leaks are repaired.

D. The air-tight and airless cleaning systems shall be operated within the manufacturer's specifications.

E. Parts shall be positioned, if practical, to allow full drainage and pools of solvent shall be removed from cleaned parts before removing parts from the air-tight or airless cleaning system.

F. Wipe up solvent leaks and spills immediately and store the used rags in closed containers.

G. Any waste material removed from an air-tight and airless cleaning system shall be disposed of by one (1) of the following methods or an equivalent method approved by the director and EPA:

(I) Reduction of the waste material to less than twenty percent (20%) VOC solvent by distillation and proper disposal of the still bottom waste; or

(II) Stored in closed containers for transfer to—

(a) A contract reclamation service; or

(b) A disposal facility approved by the director and EPA.

H. Waste solvent shall be stored in closed containers only.

(4) Reporting and Record Keeping.

(A) The owner or operator of a solvent metal cleaning or degreasing operation shall keep records of all types and amounts of solvents containing waste material from cleaning or degreasing operations transferred either to a contract reclamation service or to a disposal facility and all amounts distilled on the premises. The records also shall include maintenance and repair logs for both the degreaser and any associated control equipment. These records shall be kept current and made available for review on a monthly basis. The director may require additional record keeping if necessary to adequately demonstrate compliance with this rule.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 3—Records**

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under sections 313.004, 313.805 and 313.847, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-3.010 Commission Records is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2006 (31 MoReg 725). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses**

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under sections 313.004 and 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-4.260 Occupational Licenses is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2006 (31 MoReg 726). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 8—Accounting Records and Procedures; Audits**

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under sections 313.004, 313.805 and 313.825, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-8.060 Audits is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2006 (31 MoReg 726). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities**

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under sections 313.004, 313.805 and 313.807, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-10.020 Licensee and Applicant's Duty to Disclose Changes in Information is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2006 (31 MoReg 726-727). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 103—Sales/Use Tax—Imposition of Tax**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 143.961, RSMo 2000, the director adopts a rule as follows:

12 CSR 10-103.400 Sales Tax on Vending Machine Sales is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on June 1, 2006 (31 MoReg 857-860). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 108—Sales/Use Tax—Taxable Services**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under sections 144.010 and 144.030, RSMo Supp. 2005 and 143.961, 144.032, 144.036 and 144.046, RSMo 2000, the director adopts a rule as follows:

12 CSR 10-108.300 Sales of Electricity, Water and Gas is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on June 1, 2006 (31 MoReg 861-864). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program**

ORDER OF RULEMAKING

By the authority vested in the Division of Medical Services under sections 208.153, 208.159 and 208.201, RSMo 2000, and Conference Committee Substitute for Senate Committee Substitute for House Committee Substitute for House Bill 1011, 93rd General Assembly, the director amends a rule as follows:

13 CSR 70-10.015 Prospective Reimbursement Plan for Nursing Facility Services **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2006 (31 MoReg 920-922). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program**

ORDER OF RULEMAKING

By the authority vested in the Division of Medical Services under sections 208.153 and 208.201, RSMo 2000, and Conference Committee Substitute for Senate Committee Substitute for House Committee Substitute for House Bill 1011, 93rd General Assembly, the director amends a rule as follows:

13 CSR 70-10.080 Prospective Reimbursement Plan for HIV Nursing Facility Services **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2006 (31 MoReg 923-924). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 15—Hospital Program**

ORDER OF RULEMAKING

By the authority vested in the Division of Medical Services under sections 208.201, 208.453, and 208.455, RSMo 2000, the director amends a rule as follows:

13 CSR 70-15.110 Federal Reimbursement Allowance (FRA) **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2006 (31 MoReg 925-926). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed

amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 40—Optical Program**

ORDER OF RULEMAKING

By the authority vested in the Division of Medical Services under sections 208.152, RSMo Supp. 2005 and 208.153 and 208.201, RSMo 2000 and Conference Committee Substitute for Senate Committee Substitute for House Committee Substitute for House Bill 1011, 93rd General Assembly the division amends a rule as follows:

13 CSR 70-40.010 Optical Care Benefits and Limitations—Medicaid Program **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2006 (31 MoReg 927-928). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 60—Durable Medical Equipment Program**

ORDER OF RULEMAKING

By the authority vested in the Division of Medical Services under sections 208.153 and 208.201, RSMo 2000 and Conference Committee Substitute for Senate Committee Substitute for House Committee Substitute for House Bill 1011, 93rd General Assembly, the division amends a rule as follows:

13 CSR 70-60.010 Durable Medical Equipment Program **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2006 (31 MoReg 929-930). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

This section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs and other items required to be published in the *Missouri Register* by law.

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and
Transportation Commission
Chapter 25—Motor Carrier Operations**

IN ADDITION

7 CSR 10-25.010 Skill Performance Evaluation Certificates for Commercial Drivers

PUBLIC NOTICE

Public Notice and Request for Comments on Applications for Issuance of Skill Performance Evaluation Certificates to Intrastate Commercial Drivers with Diabetes Mellitus or Impaired Vision

SUMMARY: This notice publishes MoDOT's receipt of applications for the issuance of Skill Performance Evaluation (SPE) Certificates, from individuals who do not meet the physical qualification requirements in the Federal Motor Carrier Safety Regulations for drivers of commercial motor vehicles in Missouri intrastate commerce, because of impaired vision, or an established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control. If granted, the SPE Certificates will authorize these individuals to qualify as drivers of commercial motor vehicles (CMVs), in intrastate commerce only, without meeting the vision standard prescribed in 49 CFR 391.41(b)(10), if applicable, or the diabetes standard prescribed in 49 CFR 391.41(b)(3).

DATES: Comments must be received at the address stated below, on or before November 1, 2006.

ADDRESSES: You may submit comments concerning an applicant, identified by the Application Number stated below, by any of the following methods:

- E-mail:** Kathy.Hatfield@modot.mo.gov
- Mail:** PO Box 893, Jefferson City, MO 65102-0893
- Hand Delivery:** 1320 Creek Trail Drive, Jefferson City, MO 65109
- Instructions:** All comments submitted must include the agency name and Application Number for this public notice. For detailed instructions on submitting comments, see the Public Participation heading of the Supplementary Information section of this notice. All comments received will be open and available for public inspection and MoDOT may publish those comments by any available means.

**COMMENTS RECEIVED
BECOME MoDOT PUBLIC RECORD**

- By submitting any comments to MoDOT, the person authorizes MoDOT to publish those comments by any available means.
- Docket:** For access to the department's file, to read background documents or comments received, 1320 Creek Trail Drive, Jefferson City, MO 65109, between 7:30 a.m. and 4 p.m., Monday through Friday, except state holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Hatfield, Motor Carrier Specialist, (573) 522-9001, MoDOT Motor Carrier Services Division, PO Box 893, Jefferson City, MO 65102-0893. Office hours are from 7:30 a.m. to 4:00 p.m., CT, Monday through Friday, except state holidays.

SUPPLEMENTARY INFORMATION:

Public Participation

If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard.

Background

The individuals listed in this notice have recently filed applications requesting MoDOT to issue SPE Certificates to exempt them from the physical qualification requirements relating to vision in 49 CFR 391.41(b)(10), or to diabetes in 49 CFR 391.41(b)(3), which otherwise apply to drivers of CMVs in Missouri intrastate commerce.

Under section 622.555, *Missouri Revised Statutes* (RSMo) Supp. 2005, MoDOT may issue a Skill Performance Evaluation Certificate, for not more than a two (2)-year period, if it finds that the applicant has the ability, while operating CMVs, to maintain a level of safety that is equivalent to or greater than the driver qualification standards of 49 CFR 391.41. Upon application, MoDOT may renew an exemption upon expiration.

Accordingly, the agency will evaluate the qualifications of each applicant to determine whether issuing a SPE Certificate will comply with the statutory requirements and will achieve the required level of safety. If granted, the SPE Certificate is only applicable to intrastate transportation wholly within Missouri.

Qualifications of Applicants

Application # MP060814035

Applicant's Name & Age: Dainel A. Trejo, 34

Relevant Physical Condition: Mr. Trejo's best-corrected visual acuity in his left eye is 20/20 Snellen and in his right eye is 20/200 Snellen. He has been diagnosed with amblyopia in his right eye. This impairment occurred at infancy.

Relevant Driving Experience: Mr. Trejo has no current commercial driving experience. He has been employed with Enterprise Medical Equipment, St. Louis, MO since 1998. Previous employment has not been related to driving a commercial motor vehicle. He currently has a Class E license. Drives personal vehicle(s) daily.

Doctor's Opinion & Date: Following an examination in July 2006, his optometrist certified, "In my medical opinion, Mr. Trejo's visual deficiency is stable and he is capable of performing the driving tasks required to operate a commercial motor vehicle, and that his condition will not adversely affect his ability to operate a commercial motor vehicle safely."

Traffic Accidents and Violations: No traffic accidents or violations in the past three years.

Request for Comments

The Missouri Department of Transportation, Motor Carrier Services Division, pursuant to section 622.555, RSMo, and rule 7 CSR 10-25.010, requests public comment from all interested persons on the applications for issuance of Skill Performance Evaluation Certificates described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in this notice.

Issued on: September 1, 2006

Jan Skouby, Motor Carrier Services Director, Missouri Department of Transportation.

STATUTORY LIST OF CONTRACTORS BARRED FROM PUBLIC WORKS PROJECTS

The following is a list of contractor(s) who have been prosecuted and convicted of violating the Missouri Prevailing Wage Law, and whose Notice of Conviction has been filed with the Secretary of State pursuant to Section 290.330, RSMo.

<u>Name of Contractor</u>	<u>Name of Officers</u>	<u>Address</u>	<u>Date of Conviction</u>	<u>Debarment Period</u>
Stan Buffington DBA Buffington Brothers Heating & Cooling		110 N. Riverview Poplar Bluff, MO 63901	10/26/05	10/26/2005-10/26/06

The Secretary of State is required by sections 347.141 and 359.481, RSMo 2000 to publish dissolutions of limited liability companies and limited partnerships. The content requirements for the one-time publishing of these notices are prescribed by statute. This listing is published pursuant to these statutes. We request that documents submitted for publication in this section be submitted in camera ready 8 1/2" x 11" manuscript.

**Notice of Corporate Dissolution
To All Creditors of and
Claimants Against
Ehmke Missouri Properties, Inc.**

On August 22, 2006, Ehmke Missouri Properties, Inc., a Missouri Corporation, filed its Articles of Dissolution with the Missouri Secretary of State. Dissolution was effective on May 16, 2006.

Said corporation requests that all persons and organizations who have claims against it present them immediately by letter to the corporation at:

Ehmke Missouri Properties, Inc.
Attn: Mr. Dale F. Ehmke
10049 Pinewood Lane
Cincinnati, OH 45241-1050

With a copy to:

Beckman Weil Shepardson LLC
Attn: Jennifer Griffin Anstaett
300 Pike Street, Suite 400
Cincinnati, OH 45202

All claims must include the name and address of the claimant; the amount claimed; the basis for the claim; and the date(s) on which the event(s) occurred.

NOTICE: Because of the dissolution of Ehmke Missouri Properties, Inc., any claims against it will be barred unless a proceeding to enforce the claim is commenced within two years after the publication date of the three notices authorized by statute, whichever is published last.

Notice of Dissolution to all creditors of and claimants against Dobbs Homes, LLC. On August 25, 2006, Dobbs Homes, LLC, a Missouri limited liability company, filed its Notice of Winding Up with the Missouri Secretary of State. All persons and organizations with claims against said limited liability company must submit in writing to Dobbs Homes, LLC, c/o Keith K. Keltner, 3700 E. Millwood Drive, Ozark, Missouri 65721, a summary of the claim, including: the name, address and telephone number of the claimant; the amount of the claim; the basis of the claim; the date the claim arose; and documentation of the claim. Any and all claims against the company will be barred unless a proceeding to enforce the claim is commenced within 3 years after the date of this publication.

Notice of Dissolution to all creditors of and claimants against S, M & K Company, LLC. On August 25, 2006, S, M & K Company, LLC, a Missouri limited liability company, filed its Notice of Winding Up with the Missouri Secretary of State. All persons and organizations with claims against said limited liability company must submit in writing to S, M & K Company, LLC, c/o Keith K. Keltner, 3700 E. Millwood Drive, Ozark, Missouri 65721, a summary of the claim, including: the name, address and telephone number of the claimant; the amount of the claim; the basis of the claim; the date the claim arose; and documentation of the claim. Any and all claims against the company will be barred unless a proceeding to enforce the claim is commenced within 3 years after the date of this publication.

NOTICE OF WINDING UP FOR LIMITED LIABILITY COMPANY

1. The name of the limited liability company is TOWNSEND HOLDING LLC.
2. The Articles of Organization for TOWNSEND HOLDING LLC were filed with the Missouri Secretary of State on November 27, 2001.
3. On August 28, 2006, TOWNSEND HOLDING LLC filed a Notice of Winding Up for Limited Liability Company with the Secretary of State of Missouri.
4. Persons with claims against TOWNSEND HOLDING LLC should present them in accordance with the following procedure:
 - (a) In order to file a claim with TOWNSEND HOLDING LLC, you must furnish the following:
 - (i) Amount of the claim
 - (ii) Basis for the claim
 - (iii) Documentation for the claim
 - (b) The claim must be mailed to:

c/o Teresa Reinking
1200 Main Street, Ste. 2300
Kansas City, Missouri 64105
5. A claim against TOWNSEND HOLDING LLC will be barred unless a proceeding to enforce the claim is commenced within three (3) years after publication of this notice.

NOTICE OF WINDING UP FOR LIMITED LIABILITY COMPANY

1. The name of the limited liability company is TOWNSEND COMMUNICATIONS LLC.
2. The Articles of Organization for TOWNSEND COMMUNICATIONS LLC were filed with the Missouri Secretary of State on November 27, 2001.
3. On August 28, 2006, TOWNSEND COMMUNICATIONS LLC filed a Notice of Winding Up for Limited Liability Company with the Secretary of State of Missouri.
4. Persons with claims against TOWNSEND COMMUNICATIONS LLC should present them in accordance with the following procedure:
 - (a) In order to file a claim with TOWNSEND COMMUNICATIONS LLC, you must furnish the following:
 - (i) Amount of the claim
 - (ii) Basis for the claim
 - (iii) Documentation for the claim
 - (b) The claim must be mailed to:

c/o Teresa Reinking
1200 Main Street, Ste. 2300
Kansas City, Missouri 64105
5. A claim against TOWNSEND COMMUNICATIONS LLC will be barred unless a proceeding to enforce the claim is commenced within three (3) years after publication of this notice.

NOTICE OF WINDING UP FOR LIMITED LIABILITY COMPANY

1. The name of the limited liability company is TOWNSEND OUTLOOK PUBLISHING LLC.
2. The Articles of Organization for TOWNSEND OUTLOOK PUBLISHING LLC were filed with the Missouri Secretary of State on November 27, 2001.
3. On August 28, 2006, TOWNSEND OUTLOOK PUBLISHING LLC filed a Notice of Winding Up for Limited Liability Company with the Secretary of State of Missouri.
4. Persons with claims against TOWNSEND OUTLOOK PUBLISHING LLC should present them in accordance with the following procedure:
 - (a) In order to file a claim with TOWNSEND OUTLOOK PUBLISHING LLC, you must furnish the following:
 - (i) Amount of the claim
 - (ii) Basis for the claim
 - (iii) Documentation for the claim
 - (b) The claim must be mailed to:

c/o Teresa Reinking
1200 Main Street, Ste. 2300
Kansas City, Missouri 64105
5. A claim against TOWNSEND OUTLOOK PUBLISHING LLC will be barred unless a proceeding to enforce the claim is commenced within three (3) years after publication of this notice.

Rule Changes Since Update to Code of State Regulations

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*, citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—30 (2005) and 31 (2006). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable, RUC indicates a rule under consideration, and F indicates future effective date.

Rule Number	Agency	Emergency	Proposed	Order	In Addition
OFFICE OF ADMINISTRATION					
1 CSR 10	State Officials' Salary Compensation Schedule				30 MoReg 2435
1 CSR 10-11.030	Commissioner of Administration		31 MoReg 901	This Issue	
1 CSR 15-1.204	Administrative Hearing Commission		31 MoReg 971		
1 CSR 15-3.200	Administrative Hearing Commission		31 MoReg 971		
1 CSR 15-3.350	Administrative Hearing Commission		31 MoReg 972		
1 CSR 15-3.390	Administrative Hearing Commission		31 MoReg 972		
1 CSR 15-3.420	Administrative Hearing Commission		31 MoReg 972		
1 CSR 15-3.470	Administrative Hearing Commission		31 MoReg 973		
1 CSR 20-5.020	Personnel Advisory Board and Division of Personnel		30 MoReg 2384 31 MoReg 1057		
DEPARTMENT OF AGRICULTURE					
2 CSR 80-5.010	State Milk Board		31 MoReg 586	31 MoReg 1181	
2 CSR 110-2.010	Office of the Director	31 MoReg 1293	31 MoReg 1306		
DEPARTMENT OF CONSERVATION					
3 CSR 10-1.010	Conservation Commission		31 MoReg 1058	This Issue	
3 CSR 10-4.111	Conservation Commission		31 MoReg 768	This Issue	
3 CSR 10-7.440	Conservation Commission		N.A.	31 MoReg 1246	
			N.A.	This Issue	
3 CSR 10-7.455	Conservation Commission		N.A.	This Issue	
3 CSR 10-9.110	Conservation Commission		31 MoReg 768	31 MoReg 1181	
3 CSR 10-9.442	Conservation Commission		N.A.	This Issue	
3 CSR 10-9.565	Conservation Commission		31 MoReg 769		
3 CSR 10-10.722	Conservation Commission		31 MoReg 973	31 MoReg 1436	
3 CSR 10-12.135	Conservation Commission		N.A.	This Issue	
3 CSR 10-12.140	Conservation Commission		N.A.	This Issue	
3 CSR 10-12.150	Conservation Commission		N.A.	This Issue	
DEPARTMENT OF ECONOMIC DEVELOPMENT					
4 CSR 10	Missouri State Board of Accountancy (<i>Changed to 20 CSR 2010</i>)				31 MoReg 1330
4 CSR 10-1.010	Missouri State Board of Accountancy (<i>Changed to 20 CSR 2010-1.010</i>)		31 MoReg 653	This Issue	
4 CSR 10-1.020	Missouri State Board of Accountancy (<i>Changed to 20 CSR 2010-1.020</i>)		31 MoReg 653	This Issue	
4 CSR 10-1.050	Missouri State Board of Accountancy (<i>Changed to 20 CSR 2010-1.050</i>)		31 MoReg 654	This Issue	
4 CSR 10-2.005	Missouri State Board of Accountancy (<i>Changed to 20 CSR 2010-2.005</i>)		31 MoReg 656	This Issue	
4 CSR 10-2.022	Missouri State Board of Accountancy (<i>Changed to 20 CSR 2010-2.022</i>)		31 MoReg 656R 31 MoReg 656	This IssueR This Issue	
4 CSR 10-2.041	Missouri State Board of Accountancy (<i>Changed to 20 CSR 2010-2.041</i>)		31 MoReg 659	This Issue	
4 CSR 10-2.051	Missouri State Board of Accountancy (<i>Changed to 20 CSR 2010-2.051</i>)		31 MoReg 659	This Issue	
4 CSR 10-2.065	Missouri State Board of Accountancy (<i>Changed to 20 CSR 2010-2.065</i>)		31 MoReg 660	This Issue	
4 CSR 10-2.070	Missouri State Board of Accountancy (<i>Changed to 20 CSR 2010-2.070</i>)		31 MoReg 663	This Issue	
4 CSR 10-2.072	Missouri State Board of Accountancy (<i>Changed to 20 CSR 2010-2.072</i>)		31 MoReg 663	This Issue	
4 CSR 10-2.075	Missouri State Board of Accountancy (<i>Changed to 20 CSR 2010-2.075</i>)		31 MoReg 664	This Issue	
4 CSR 10-2.130	Missouri State Board of Accountancy (<i>Changed to 20 CSR 2010-2.130</i>)		31 MoReg 664R 31 MoReg 664	This IssueR This Issue	
4 CSR 10-2.140	Missouri State Board of Accountancy (<i>Changed to 20 CSR 2010-2.140</i>)		31 MoReg 667	This Issue	
4 CSR 10-2.150	Missouri State Board of Accountancy (<i>Changed to 20 CSR 2010-2.150</i>)		31 MoReg 668R 31 MoReg 668	This IssueR This Issue	
4 CSR 10-2.160	Missouri State Board of Accountancy (<i>Changed to 20 CSR 2010-2.160</i>)		31 MoReg 669	This Issue	

Rule Number	Agency	Emergency	Proposed	Order	In Addition
4 CSR 15	Acupuncturist Advisory Committee (<i>Changed to 20 CSR 2015</i>)				31 MoReg 1330
4 CSR 30	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects (<i>Changed to 20 CSR 2030</i>)				31 MoReg 1331
4 CSR 30-6.015	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects (<i>Changed to 20 CSR 2030-6.015</i>)		31 MoReg 1392		
4 CSR 40	Office of Athletics (<i>Changed to 20 CSR 2040</i>)				31 MoReg 1332
4 CSR 40-4.040	Office of Athletics (<i>Changed to 20 CSR 2040-4.040</i>)		31 MoReg 1310		
4 CSR 40-4.090	Office of Athletics (<i>Changed to 20 CSR 2040-4.090</i>)		31 MoReg 1310		
4 CSR 45	Athlete Agents (<i>Changed to 20 CSR 2045</i>)				31 MoReg 1333
4 CSR 50	State Banking Board (<i>Changed to 20 CSR 1135</i>)				31 MoReg 1333
4 CSR 60	State Board of Barber Examiners (<i>Changed to 20 CSR 2060</i>)				31 MoReg 1333
4 CSR 65	Endowed Care Cemeteries (<i>Changed to 20 CSR 2065</i>)				31 MoReg 1333
4 CSR 70	State Board of Chiropractic Examiners (<i>Changed to 20 CSR 2070</i>)				31 MoReg 1334
4 CSR 85-4.010	Division of Community and Economic Development		31 MoReg 973		
4 CSR 90	State Board of Cosmetology (<i>Changed to 20 CSR 2090</i>)				31 MoReg 1334
4 CSR 95	Committee for Professional Counselors (<i>Changed to 20 CSR 2095</i>)				31 MoReg 1335
4 CSR 100	Division of Credit Unions (<i>Changed to 20 CSR 1100</i>)				31 MoReg 1335
4 CSR 100-2.075	Division of Credit Unions		31 MoReg 1058		
4 CSR 105	Credit Union Commission (<i>Changed to 20 CSR 1105</i>)				31 MoReg 1336
4 CSR 105-3.010	Credit Union Commission		31 MoReg 1061		
4 CSR 105-3.011	Credit Union Commission		31 MoReg 1062		
4 CSR 105-3.012	Credit Union Commission		31 MoReg 1063		
4 CSR 110	Missouri Dental Board (<i>Changed to 20 CSR 2110</i>)				31 MoReg 1336
4 CSR 110-2.110	Missouri Dental Board (<i>Changed to 20 CSR 2110-2.110</i>)		31 MoReg 1395		
4 CSR 110-2.114	Missouri Dental Board (<i>Changed to 20 CSR 2110-2.114</i>)		31 MoReg 1395		
4 CSR 115	State Committee of Dietitians (<i>Changed to 20 CSR 2115</i>)				31 MoReg 1337
4 CSR 120	State board of Embalmers and Funeral Directors (<i>Changed to 20 CSR 2120</i>)				31 MoReg 1337
4 CSR 120-2.060	State Board of Embalmers and Funeral Directors		31 MoReg 542	31 MoReg 1181	
4 CSR 140	Division of Finance (<i>Changed to 20 CSR 1140</i>)				31 MoReg 1337
4 CSR 145	Missouri Board of Geologist Registration (<i>Changed to 20 CSR 2145</i>)				31 MoReg 1339
4 CSR 150	State Board of Registration for the Healing Arts (<i>Changed to 20 CSR 2150</i>)				31 MoReg 1340
4 CSR 150-2.125	State Board of Registration for the Healing Arts (<i>Changed to 20 CSR 2150-2.125</i>)		31 MoReg 1398		
4 CSR 150-3.010	State Board of Registration for the Healing Arts (<i>Changed to 20 CSR 2150-3.010</i>)		31 MoReg 1398		
4 CSR 150-3.203	State Board of Registration for the Healing Arts (<i>Changed to 20 CSR 2150-3.203</i>)		31 MoReg 1399		
4 CSR 150-5.100	State Board of Registration for the Healing Arts (<i>Changed to 20 CSR 2150-5.100</i>)		31 MoReg 1399		
4 CSR 150-7.135	State Board of Registration for the Healing Arts (<i>Changed to 20 CSR 2150-7.135</i>)		31 MoReg 1400		
4 CSR 165	Board of Examiners for Hearing Instrument Specialists (<i>Changed to 20 CSR 2165</i>)				31 MoReg 1342
4 CSR 193	Interior Design Council (<i>Changed to 20 CSR 2193</i>)				31 MoReg 1342
4 CSR 197	Board of Therapeutic Massage (<i>Changed to 20 CSR 2197</i>)				31 MoReg 1342
4 CSR 200	State Board of Nursing (<i>Changed to 20 CSR 2200</i>)				31 MoReg 1343
4 CSR 200-4.100	State Board of Nursing (<i>Changed to 20 CSR 2200-4.100</i>)		31 MoReg 1401		
4 CSR 200-4.200	State Board of Nursing (<i>Changed to 20 CSR 2200-4.200</i>)		31 MoReg 1401		
4 CSR 205	Missouri Board of Occupational Therapy (<i>Changed to 20 CSR 2205</i>)				31 MoReg 1344
4 CSR 210	State Board of Optometry (<i>Changed to 20 CSR 2210</i>)				31 MoReg 1344

Rule Number	Agency	Emergency	Proposed	Order	In Addition
4 CSR 220	State Board of Pharmacy (<i>Changed to 20 CSR 2220</i>)				31 MoReg 1344
4 CSR 220-2.010	State Board of Pharmacy (<i>Changed to 20 CSR 2220-2.010</i>)		This Issue		
4 CSR 220-2.020	State Board of Pharmacy (<i>Changed to 20 CSR 2220-2.020</i>)		This Issue		
4 CSR 220-2.025	State Board of Pharmacy (<i>Changed to 20 CSR 2220-2.025</i>)		This Issue		
4 CSR 220-2.190	State Board of Pharmacy (<i>Changed to 20 CSR 2220-2.190</i>)		This Issue		
4 CSR 220-2.450	State Board of Pharmacy (<i>Changed to 20 CSR 2220-2.450</i>)		This Issue		
4 CSR 220-2.900	State Board of Pharmacy (<i>Changed to 20 CSR 2220-2.900</i>)		This Issue		
4 CSR 220-5.020	State Board of Pharmacy (<i>Changed to 20 CSR 2220-5.020</i>)		This Issue		
4 CSR 220-5.030	State Board of Pharmacy (<i>Changed to 20 CSR 2220-5.030</i>)		This Issue		
4 CSR 230	State Board of Podiatric Medicine (<i>Changed to 20 CSR 2230</i>)				31 MoReg 1345
4 CSR 231	Division of Professional Registration (<i>Changed to 20 CSR 2231</i>)				31 MoReg 1346
4 CSR 232	Missouri State Committee of Interpreters (<i>Changed to 20 CSR 2232</i>)				31 MoReg 1346
4 CSR 232-2.040	Missouri State Committee of Interpreters (<i>Changed to 20 CSR 2232-2.040</i>)	This Issue	This Issue		
4 CSR 232-3.010	Missouri State Committee of Interpreters		31 MoReg 1211		
4 CSR 233	State Committee of Marital and Family Therapists (<i>Changed to 20 CSR 2233</i>)				31 MoReg 1346
4 CSR 235	State Committee of Psychologists (<i>Changed to 20 CSR 2235</i>)				31 MoReg 1346
4 CSR 235-5.030	State Committee of Psychologists		31 MoReg 1212R 31 MoReg 1212		
4 CSR 235-7.020	State Committee of Psychologists		31 MoReg 1218		
4 CSR 235-7.030	State Committee of Psychologists		31 MoReg 1218		
4 CSR 240-2.135	Public Service Commission		31 MoReg 982		
4 CSR 240-3.161	Public Service Commission		31 MoReg 1063		
4 CSR 240-3.545	Public Service Commission		31 MoReg 902		
4 CSR 240-13.055	Public Service Commission		31 MoReg 902	31 MoReg 1436	
4 CSR 240-20.090	Public Service Commission		31 MoReg 1076		
4 CSR 245	Real Estate Appraisers (<i>Changed to 20 CSR 2245</i>)				31 MoReg 1347
4 CSR 250	Missouri Real Estate Commission (<i>Changed to 20 CSR 2250</i>)				31 MoReg 1348
4 CSR 250-3.010	Missouri Real Estate Commission		31 MoReg 672	31 MoReg 1246	
4 CSR 250-3.020	Missouri Real Estate Commission		31 MoReg 675	31 MoReg 1246	
4 CSR 250-5.030	Missouri Real Estate Commission		31 MoReg 675	31 MoReg 1247	
4 CSR 250-5.040	Missouri Real Estate Commission		31 MoReg 678	31 MoReg 1247	
4 CSR 250-6.010	Missouri Real Estate Commission		31 MoReg 678R	31 MoReg 1247R	
4 CSR 250-6.020	Missouri Real Estate Commission		31 MoReg 678R	31 MoReg 1247R	
4 CSR 250-6.040	Missouri Real Estate Commission		31 MoReg 678R	31 MoReg 1247R	
4 CSR 250-6.050	Missouri Real Estate Commission		31 MoReg 679R	31 MoReg 1247R	
4 CSR 250-6.060	Missouri Real Estate Commission		31 MoReg 679	31 MoReg 1247	
4 CSR 250-7.010	Missouri Real Estate Commission		31 MoReg 682R	31 MoReg 1248R	
			31 MoReg 682	31 MoReg 1248	
4 CSR 250-7.020	Missouri Real Estate Commission		31 MoReg 686R	31 MoReg 1248R	
			31 MoReg 686	31 MoReg 1248	
4 CSR 250-7.030	Missouri Real Estate Commission		31 MoReg 691R	31 MoReg 1248R	
4 CSR 250-7.040	Missouri Real Estate Commission		31 MoReg 691R	31 MoReg 1248R	
4 CSR 250-7.050	Missouri Real Estate Commission		31 MoReg 691R	31 MoReg 1249R	
4 CSR 250-7.060	Missouri Real Estate Commission		31 MoReg 691	31 MoReg 1249	
4 CSR 250-7.070	Missouri Real Estate Commission		31 MoReg 692	31 MoReg 1249	
4 CSR 250-7.080	Missouri Real Estate Commission		31 MoReg 693	31 MoReg 1249	
4 CSR 250-7.090	Missouri Real Estate Commission		31 MoReg 696	31 MoReg 1249	
4 CSR 250-10.010	Missouri Real Estate Commission		31 MoReg 698R	31 MoReg 1250R	
4 CSR 250-10.020	Missouri Real Estate Commission		31 MoReg 698R	31 MoReg 1250R	
4 CSR 250-10.030	Missouri Real Estate Commission		31 MoReg 698R	31 MoReg 1250R	
4 CSR 250-10.040	Missouri Real Estate Commission		31 MoReg 698R	31 MoReg 1250R	
4 CSR 250-10.050	Missouri Real Estate Commission		31 MoReg 699R	31 MoReg 1250R	
4 CSR 250-10.060	Missouri Real Estate Commission		31 MoReg 699R	31 MoReg 1250R	
4 CSR 250-10.070	Missouri Real Estate Commission		31 MoReg 699R	31 MoReg 1250R	
4 CSR 250-10.075	Missouri Real Estate Commission		31 MoReg 699R	31 MoReg 1251R	
4 CSR 250-10.080	Missouri Real Estate Commission		31 MoReg 700R	31 MoReg 1251R	
4 CSR 250-10.100	Missouri Real Estate Commission		31 MoReg 700	31 MoReg 1251	
4 CSR 255	Missouri Board for Respiratory Care (<i>Changed to 20 CSR 2255</i>)				31 MoReg 1349
4 CSR 255-1.040	Missouri Board for Respiratory Care (<i>Changed to 20 CSR 2255-1.040</i>)		31 MoReg 1402		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
4 CSR 255-2.010	Missouri Board for Respiratory Care (<i>Changed to 20 CSR 2255-2.010</i>)		31 MoReg 1405		
4 CSR 255-2.020	Missouri Board for Respiratory Care (<i>Changed to 20 CSR 2255-2.020</i>)		31 MoReg 1407		
4 CSR 255-2.030	Missouri Board for Respiratory Care (<i>Changed to 20 CSR 2255-2.030</i>)		31 MoReg 1409		
4 CSR 255-4.010	Missouri Board for Respiratory Care (<i>Changed to 20 CSR 2255-4.010</i>)		31 MoReg 1411		
4 CSR 263	State Committee for Social Workers (<i>Changed to 20 CSR 2263</i>)				31 MoReg 1349
4 CSR 263-1.035	State Committee for Social Workers (<i>Changed to 20 CSR 2263-1.035</i>)		31 MoReg 1412		
4 CSR 263-2.090	State Committee for Social Workers (<i>Changed to 20 CSR 2263-2.090</i>)		31 MoReg 1415		
4 CSR 267	Office of Tattooing, Body Piercing and Branding (<i>Changed to 20 CSR 2267</i>)				31 MoReg 1350
4 CSR 267-2.020	Office of Tattooing, Body Piercing and Branding		31 MoReg 1219		
4 CSR 270	Missouri Veterinary Medical Board (<i>Changed to 20 CSR 2270</i>)				31 MoReg 1350
4 CSR 270-1.050	Missouri Veterinary Medical Board (<i>Changed to 20 CSR 2270-1.050</i>)		31 MoReg 1417		
DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION					
5 CSR 30-260.010	Division of Administrative and Financial Services		31 MoReg 849		
5 CSR 30-261.025	Division of Administrative and Financial Services		31 MoReg 984		
5 CSR 30-345.010	Division of Administrative and Financial Services		31 MoReg 1417R		
5 CSR 50-345.020	Division of School Improvement		31 MoReg 1223R		
5 CSR 80-805.015	Teacher Quality and Urban Education		31 MoReg 1223		
5 CSR 80-805.030	Teacher Quality and Urban Education		31 MoReg 849		
DEPARTMENT OF TRANSPORTATION					
7 CSR 10-1.010	Missouri Highways and Transportation Commission		31 MoReg 1083		
7 CSR 10-25.010	Missouri Highways and Transportation Commission				31 MoReg 1253 31 MoReg 1439 This Issue
7 CSR 10-25.040	Missouri Highways and Transportation Commission		31 MoReg 906		
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS					
8 CSR 50-2.030	Division of Workers' Compensation	31 MoReg 1377	31 MoReg 1417		
8 CSR 50-2.060	Division of Workers' Compensation		31 MoReg 770R 31 MoReg 771	31 MoReg 1328R 31 MoReg 1328	
DEPARTMENT OF MENTAL HEALTH					
9 CSR 10-7.140	Director, Department of Mental Health		This Issue		
9 CSR 45-2.015	Division of Mental Retardation and Developmental Disabilities		31 MoReg 704	This Issue	
9 CSR 45-2.017	Division of Mental Retardation and Developmental Disabilities		31 MoReg 704	This Issue	
9 CSR 45-5.120	Division of Mental Retardation and Developmental Disabilities				31 MoReg 394RUC
DEPARTMENT OF NATURAL RESOURCES					
10 CSR 10-5.300	Air Conservation Commission		31 MoReg 714	This Issue	
10 CSR 10-6.070	Air Conservation Commission		31 MoReg 906		
10 CSR 10-6.075	Air Conservation Commission		31 MoReg 908		
10 CSR 10-6.080	Air Conservation Commission		31 MoReg 910		
10 CSR 10-6.110	Air Conservation Commission		31 MoReg 911		
10 CSR 10-6.345	Air Conservation Commission		31 MoReg 919		
10 CSR 20-1.020	Clean Water Commission		31 MoReg 851		
10 CSR 25-3.260	Hazardous Waste Management Commission		31 MoReg 719		
10 CSR 25-4.261	Hazardous Waste Management Commission		31 MoReg 720		
10 CSR 25-5.262	Hazardous Waste Management Commission		31 MoReg 720		
10 CSR 25-6.263	Hazardous Waste Management Commission		31 MoReg 721		
10 CSR 25-7.264	Hazardous Waste Management Commission		31 MoReg 721		
10 CSR 25-7.265	Hazardous Waste Management Commission		31 MoReg 722		
10 CSR 25-7.266	Hazardous Waste Management Commission		31 MoReg 722		
10 CSR 25-7.268	Hazardous Waste Management Commission		31 MoReg 723		
10 CSR 25-7.270	Hazardous Waste Management Commission		31 MoReg 723		
10 CSR 25-11.279	Hazardous Waste Management Commission		31 MoReg 724		
10 CSR 25-16.273	Hazardous Waste Management Commission		31 MoReg 725		
10 CSR 80-2.010	Solid Waste Management		31 MoReg 1141		
10 CSR 80-2.015	Solid Waste Management		31 MoReg 1145		
10 CSR 140-2.020	Division of Energy				31 MoReg 872
DEPARTMENT OF PUBLIC SAFETY					
11 CSR 10-5.010	Adjutant General	31 MoReg 1380	31 MoReg 1422		
11 CSR 40-2.010	Division of Fire Safety		31 MoReg 852		
11 CSR 40-2.025	Division of Fire Safety		31 MoReg 853		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
11 CSR 45-3.010	Missouri Gaming Commission		31 MoReg 725	This Issue	
11 CSR 45-4.260	Missouri Gaming Commission		31 MoReg 726	This Issue	
11 CSR 45-5.180	Missouri Gaming Commission		This Issue		
11 CSR 45-5.190	Missouri Gaming Commission		This Issue		
11 CSR 45-5.200	Missouri Gaming Commission		This Issue		
11 CSR 45-5.237	Missouri Gaming Commission		31 MoReg 1155		
11 CSR 45-7.030	Missouri Gaming Commission		31 MoReg 1313		
11 CSR 45-7.040	Missouri Gaming Commission		31 MoReg 1315		
11 CSR 45-7.080	Missouri Gaming Commission		31 MoReg 1317		
11 CSR 45-7.120	Missouri Gaming Commission		31 MoReg 1319		
11 CSR 45-8.060	Missouri Gaming Commission		31 MoReg 726	This Issue	
11 CSR 45-8.170	Missouri Gaming Commission		31 MoReg 376		
11 CSR 45-10.020	Missouri Gaming Commission		31 MoReg 726	This Issue	
11 CSR 45-11.040	Missouri Gaming Commission		This Issue		
11 CSR 45-11.090	Missouri Gaming Commission		This IssueR		
11 CSR 45-11.110	Missouri Gaming Commission		This Issue		
11 CSR 45-12.020	Missouri Gaming Commission		This Issue		
11 CSR 45-12.040	Missouri Gaming Commission		This Issue		
11 CSR 45-12.090	Missouri Gaming Commission		This Issue		
11 CSR 45-30.035	Missouri Gaming Commission		31 MoReg 379	31 MoReg 1182	
11 CSR 45-30.090	Missouri Gaming Commission		31 MoReg 379	31 MoReg 1182	
11 CSR 45-30.140	Missouri Gaming Commission		31 MoReg 379	31 MoReg 1182	
11 CSR 45-30.175	Missouri Gaming Commission		31 MoReg 380	31 MoReg 1182	
11 CSR 45-30.390	Missouri Gaming Commission		31 MoReg 380	31 MoReg 1183	
11 CSR 45-30.480	Missouri Gaming Commission		31 MoReg 381	31 MoReg 1183	
11 CSR 45-30.600	Missouri Gaming Commission		31 MoReg 381	31 MoReg 1183	
11 CSR 45-30.610	Missouri Gaming Commission		31 MoReg 384	31 MoReg 1184	
11 CSR 50-2.320	Missouri State Highway Patrol		31 MoReg 1425		
DEPARTMENT OF REVENUE					
12 CSR 10-23.422	Director of Revenue		This IssueR		
12 CSR 10-42.070	Director of Revenue		31 MoReg 1319R		
12 CSR 10-103.400	Director of Revenue		31 MoReg 857	This Issue	
12 CSR 10-108.300	Director of Revenue		31 MoReg 861	This Issue	
12 CSR 10-200.010	Director of Revenue		31 MoReg 727	31 MoReg 1328W	
12 CSR 30-1.010	State Tax Commission		31 MoReg 771	31 MoReg 1328	
12 CSR 30-1.020	State Tax Commission		31 MoReg 772	31 MoReg 1328	
12 CSR 30-3.090	State Tax Commission		31 MoReg 772	31 MoReg 1329	
DEPARTMENT OF SOCIAL SERVICES					
13 CSR 35-60.010	Children's Division	31 MoReg 1295	31 MoReg 1319		
13 CSR 35-60.020	Children's Division		31 MoReg 1320		
13 CSR 35-60.030	Children's Division	31 MoReg 1296	31 MoReg 1320		
13 CSR 35-60.040	Children's Division		31 MoReg 1321		
13 CSR 35-60.050	Children's Division		31 MoReg 1322		
13 CSR 35-60.060	Children's Division		31 MoReg 1324		
13 CSR 40-60.010	Family Support Division	31 MoReg 1297R	31 MoReg 1324R		
13 CSR 40-60.020	Family Support Division		31 MoReg 1325R		
13 CSR 40-60.030	Family Support Division	31 MoReg 1297R	31 MoReg 1325R		
13 CSR 40-60.040	Family Support Division		31 MoReg 1325R		
13 CSR 40-60.050	Family Support Division		31 MoReg 1325R		
13 CSR 40-60.060	Family Support Division		31 MoReg 1326R		
13 CSR 40-110.030	Family Support Division		31 MoReg 731	31 MoReg 1251W	
13 CSR 70-1.010	Division of Medical Services		31 MoReg 772	31 MoReg 1329	
13 CSR 70-3.030	Division of Medical Services		31 MoReg 1155		
13 CSR 70-3.100	Division of Medical Services		31 MoReg 1086		
13 CSR 70-3.170	Division of Medical Services	31 MoReg 899 31 MoReg 1047	31 MoReg 1087		
13 CSR 70-3.180	Division of Medical Services		31 MoReg 1155		
13 CSR 70-4.080	Division of Medical Services	31 MoReg 1048	31 MoReg 1091		
13 CSR 70-6.010	Division of Medical Services		31 MoReg 468 31 MoReg 1326	31 MoReg 1184	
13 CSR 70-10.015	Division of Medical Services	31 MoReg 1050	31 MoReg 920	This Issue	
13 CSR 70-10.080	Division of Medical Services	31 MoReg 1051	31 MoReg 923	This Issue	
13 CSR 70-15.010	Division of Medical Services		31 MoReg 1156		
13 CSR 70-15.110	Division of Medical Services	31 MoReg 900 31 MoReg 1052	31 MoReg 925	This Issue	
13 CSR 70-40.010	Division of Medical Services	31 MoReg 1052	31 MoReg 927	This Issue	
13 CSR 70-45.010	Division of Medical Services		31 MoReg 1095		
13 CSR 70-60.010	Division of Medical Services	31 MoReg 1053	31 MoReg 929	This Issue	
13 CSR 70-65.010	Division of Medical Services		31 MoReg 987		
13 CSR 70-70.010	Division of Medical Services		31 MoReg 987		
13 CSR 70-90.010	Division of Medical Services		31 MoReg 988		
13 CSR 70-95.010	Division of Medical Services		31 MoReg 988		
13 CSR 70-99.010	Division of Medical Services		31 MoReg 988		
DEPARTMENT OF CORRECTIONS					
14 CSR 80-5.020	State Board of Probation and Parole		31 MoReg 1428		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
ELECTED OFFICIALS					
15 CSR 30-10.010	Secretary of State	31 MoReg 1129	31 MoReg 1160		
15 CSR 30-10.020	Secretary of State	31 MoReg 1130	31 MoReg 1160		
15 CSR 30-10.130	Secretary of State	31 MoReg 1132	31 MoReg 1162		
15 CSR 30-10.140	Secretary of State	31 MoReg 1133	31 MoReg 1163		
15 CSR 30-10.150	Secretary of State	31 MoReg 1134	31 MoReg 1164		
15 CSR 30-10.160	Secretary of State	31 MoReg 1135	31 MoReg 1165		
15 CSR 30-50.040	Secretary of State		30 MoReg 2307		
			31 MoReg 608	31 MoReg 1185	
15 CSR 30-54.060	Secretary of State		31 MoReg 1327		
15 CSR 30-54.070	Secretary of State		31 MoReg 734	31 MoReg 1251	
15 CSR 30-200.100	Secretary of State		31 MoReg 542	31 MoReg 1185	
15 CSR 40-3.030	State Auditor		31 MoReg 1166		
RETIREMENT SYSTEMS					
16 CSR 50-2.035	The County Employees' Retirement Fund		31 MoReg 543	31 MoReg 1185	
16 CSR 50-2.160	The County Employees' Retirement Fund		31 MoReg 544	31 MoReg 1185	
16 CSR 50-3.010	The County Employees' Retirement Fund		31 MoReg 544	31 MoReg 1186	
16 CSR 50-10.050	The County Employees' Retirement Fund		31 MoReg 1430		
16 CSR 50-20.070	The County Employees' Retirement Fund		31 MoReg 1095		
PUBLIC DEFENDER COMMISSION					
18 CSR 10-3.010	Office of State Public Defender		31 MoReg 385		
			31 MoReg 1225		
DEPARTMENT OF HEALTH AND SENIOR SERVICES					
19 CSR 15-7.021	Division of Senior and Disability Services		31 MoReg 989		
19 CSR 20-20.010	Division of Community and Public Health		31 MoReg 478	31 MoReg 1252	
19 CSR 20-20.020	Division of Community and Public Health		31 MoReg 480	31 MoReg 1252	
19 CSR 20-20.080	Division of Community and Public Health	31 MoReg 277	31 MoReg 488	31 MoReg 1252	
19 CSR 30-40.450	Division of Regulation and Licensure		31 MoReg 995		
19 CSR 30-82.010	Division of Regulation and Licensure		This Issue		
19 CSR 30-83.010	Division of Regulation and Licensure		This Issue		
19 CSR 30-84.030	Division of Regulation and Licensure		This Issue		
19 CSR 30-84.040	Division of Regulation and Licensure		This Issue		
19 CSR 30-86.012	Division of Regulation and Licensure		This Issue		
19 CSR 30-86.022	Division of Regulation and Licensure		This Issue		
19 CSR 30-86.032	Division of Regulation and Licensure		This Issue		
19 CSR 30-86.042	Division of Regulation and Licensure		This Issue		
19 CSR 30-86.043	Division of Regulation and Licensure		This Issue		
19 CSR 30-86.045	Division of Regulation and Licensure		This Issue		
19 CSR 30-86.047	Division of Regulation and Licensure		This Issue		
19 CSR 30-86.052	Division of Regulation and Licensure		This Issue		
19 CSR 30-87.020	Division of Regulation and Licensure		This Issue		
19 CSR 30-87.030	Division of Regulation and Licensure		This Issue		
19 CSR 30-88.010	Division of Regulation and Licensure		This Issue		
19 CSR 60-50	Missouri Health Facilities Review Committee				31 MoReg 1254 31 MoReg 1440
19 CSR 60-50.300	Missouri Health Facilities Review Committee	31 MoReg 1382	31 MoReg 1430		
19 CSR 60-50.400	Missouri Health Facilities Review Committee	31 MoReg 1382	31 MoReg 1430		
19 CSR 60-50.410	Missouri Health Facilities Review Committee	31 MoReg 1383	31 MoReg 1431		
19 CSR 60-50.430	Missouri Health Facilities Review Committee	31 MoReg 1384	31 MoReg 1431		
19 CSR 60-50.450	Missouri Health Facilities Review Committee	31 MoReg 1385	31 MoReg 1432		
19 CSR 60-50.470	Missouri Health Facilities Review Committee	31 MoReg 1386	31 MoReg 1433		
19 CSR 60-50.600	Missouri Health Facilities Review Committee	31 MoReg 1386	31 MoReg 1433		
19 CSR 60-50.700	Missouri Health Facilities Review Committee	31 MoReg 1387	31 MoReg 1434		
19 CSR 60-50.800	Missouri Health Facilities Review Committee	31 MoReg 1387	31 MoReg 1434		
19 CSR 60-50.900	Missouri Health Facilities Review Committee	31 MoReg 1388	31 MoReg 1434		
DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION					
20 CSR	Medical Malpractice				29 MoReg 505 30 MoReg 481 31 MoReg 616
20 CSR	Sovereign Immunity Limits				28 MoReg 2265 30 MoReg 108 30 MoReg 2587
20 CSR 200-6.300	Financial Examination		31 MoReg 1435		
20 CSR 200-11.101	Financial Examination		31 MoReg 776	31 MoReg 1438	
20 CSR 200-18.010	Financial Examination		31 MoReg 1166		
20 CSR 200-18.020	Financial Examination		31 MoReg 1174		
20 CSR 400-2.135	Life, Annuities and Health		This Issue		
20 CSR 400-5.410	Life, Annuities and Health		31 MoReg 1226		
20 CSR 700-6.350	Licensing		31 MoReg 931		
20 CSR 1100	Division of Credit Unions (Changed from 4 CSR 100)				31 MoReg 1335
20 CSR 1105	Credit Union Commission (Changed from 4 CSR 105)				31 MoReg 1336
20 CSR 1135	State Banking Board (Changed from 4 CSR 50)				31 MoReg 1333

Rule Number	Agency	Emergency	Proposed	Order	In Addition
20 CSR 1140	Division of Finance (<i>Changed from 4 CSR 140</i>)				31 MoReg 1337
20 CSR 2010	Missouri State Board of Accountancy (<i>Changed from 4 CSR 10</i>)				31 MoReg 1330
20 CSR 2010-1.010	Missouri State Board of Accountancy (<i>Changed from 4 CSR 10-1.010</i>)		31 MoReg 653	This Issue	
20 CSR 2010-1.020	Missouri State Board of Accountancy (<i>Changed from 4 CSR 10-1.020</i>)		31 MoReg 653	This Issue	
20 CSR 2010-1.050	Missouri State Board of Accountancy (<i>Changed from 4 CSR 10-1.050</i>)		31 MoReg 654	This Issue	
20 CSR 2010-2.005	Missouri State Board of Accountancy (<i>Changed from 4 CSR 10-2.005</i>)		31 MoReg 656	This Issue	
20 CSR 2010-2.022	Missouri State Board of Accountancy (<i>Changed from 4 CSR 10-2.022</i>)		31 MoReg 656R 31 MoReg 656	This IssueR This Issue	
20 CSR 2010-2.041	Missouri State Board of Accountancy (<i>Changed from 4 CSR 10-2.041</i>)		31 MoReg 659	This Issue	
20 CSR 2010-2.051	Missouri State Board of Accountancy (<i>Changed from 4 CSR 10-2.051</i>)		31 MoReg 659	This Issue	
20 CSR 2010-2.065	Missouri State Board of Accountancy (<i>Changed from 4 CSR 10-2.065</i>)		31 MoReg 660	This Issue	
20 CSR 2010-2.070	Missouri State Board of Accountancy (<i>Changed from 4 CSR 10-2.070</i>)		31 MoReg 663	This Issue	
20 CSR 2010-2.072	Missouri State Board of Accountancy (<i>Changed from 4 CSR 10-2.072</i>)		31 MoReg 663	This Issue	
20 CSR 2010-2.075	Missouri State Board of Accountancy (<i>Changed from 4 CSR 10-2.075</i>)		31 MoReg 664	This Issue	
20 CSR 2010-2.130	Missouri State Board of Accountancy (<i>Changed from 4 CSR 10-2.130</i>)		31 MoReg 664R 31 MoReg 664	This IssueR This Issue	
20 CSR 2010-2.140	Missouri State Board of Accountancy (<i>Changed from 4 CSR 10-2.140</i>)		31 MoReg 667	This Issue	
20 CSR 2010-2.150	Missouri State Board of Accountancy (<i>Changed from 4 CSR 10-2.150</i>)		31 MoReg 668R 31 MoReg 668	This IssueR This Issue	
20 CSR 2010-2.160	Missouri State Board of Accountancy (<i>Changed from 4 CSR 10-2.160</i>)		31 MoReg 669	This Issue	
20 CSR 2015	Acupuncturist Advisory Committee (<i>Changed from 4 CSR 15</i>)				31 MoReg 1330
20 CSR 2030	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects (<i>Changed from 4 CSR 30</i>)				31 MoReg 1331
20 CSR 2030-6.015	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects (<i>Changed from 4 CSR 30-6.015</i>)		31 MoReg 1392		
20 CSR 2040	Office of Athletics (<i>Changed from 4 CSR 40</i>)				31 MoReg 1332
20 CSR 2040-4.040	Office of Athletics (<i>Changed from 4 CSR 40-4.040</i>)		31 MoReg 1310		
20 CSR 2040-4.090	Office of Athletics (<i>Changed from 4 CSR 40-4.090</i>)		31 MoReg 1310		
20 CSR 2045	Athlete Agents (<i>Changed from 4 CSR 45</i>)				31 MoReg 1333
20 CSR 2060	State Board of Barber Examiners (<i>Changed from 4 CSR 60</i>)				31 MoReg 1333
20 CSR 2065	Endowed Care Cemeteries (<i>Changed from 4 CSR 65</i>)				31 MoReg 1333
20 CSR 2070	State Board of Chiropractic Examiners (<i>Changed from 4 CSR 70</i>)				31 MoReg 1334
20 CSR 2090	State Board of Cosmetology (<i>Changed from 4 CSR 90</i>)				31 MoReg 1334
20 CSR 2095	Committee for Professional Counselors (<i>Changed from 4 CSR 95</i>)				31 MoReg 1335
20 CSR 2110	Missouri Dental Board (<i>Changed from 4 CSR 110</i>)				31 MoReg 1336
20 CSR 2110-2.110	Missouri Dental Board (<i>Changed from 4 CSR 110-2.110</i>)		31 MoReg 1395		
20 CSR 2110-2.114	Missouri Dental Board (<i>Changed from 4 CSR 110-2.114</i>)		31 MoReg 1395		
20 CSR 2115	State Committee of Dietitians (<i>Changed from 4 CSR 115</i>)				31 MoReg 1337
20 CSR 2120	State Board of Embalmers and Funeral Directors (<i>Changed from 4 CSR 120</i>)				31 MoReg 1337
20 CSR 2145	Missouri Board of Geologist Registration (<i>Changed from 4 CSR 145</i>)				31 MoReg 1340
20 CSR 2150	State Board of Registration for the Healing Arts (<i>Changed from 4 CSR 150</i>)				31 MoReg 1340
20 CSR 2150-2.125	State Board of Registration for the Healing Arts (<i>Changed from 4 CSR 150-2.125</i>)		31 MoReg 1398		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
20 CSR 2150-3.010	State Board of Registration for the Healing Arts (<i>Changed from 4 CSR 150-3.010</i>)		31 MoReg 1398		
20 CSR 2150-3.203	State Board of Registration for the Healing Arts (<i>Changed from 4 CSR 150-3.203</i>)		31 MoReg 1399		
20 CSR 2150-5.100	State Board of Registration for the Healing Arts (<i>Changed from 4 CSR 150-5.100</i>)		31 MoReg 1399		
20 CSR 2150-7.135	State Board of Registration for the Healing Arts (<i>Changed from 4 CSR 150-7.135</i>)		31 MoReg 1400		
20 CSR 2165	Board of Examiners for Hearing Instrument Specialists (<i>Changed from 4 CSR 165</i>)				31 MoReg 1342
20 CSR 2193	Interior Design Council (<i>Changed from 4 CSR 193</i>)				31 MoReg 1342
20 CSR 2197	Board of Therapeutic Massage (<i>Changed from 4 CSR 197</i>)				31 MoReg 1343
20 CSR 2200	State Board of Nursing (<i>Changed from 4 CSR 200</i>)				31 MoReg 1343
20 CSR 2200-4.100	State Board of Nursing (<i>Changed from 4 CSR 200-4.100</i>)		31 MoReg 1401		
20 CSR 2200-4.200	State Board of Nursing (<i>Changed from 4 CSR 200-4.200</i>)		31 MoReg 1401		
20 CSR 2205	Missouri Board of Occupational Therapy (<i>Changed from 4 CSR 205</i>)				31 MoReg 1344
20 CSR 2210	State Board of Optometry (<i>Changed from 4 CSR 210</i>)				31 MoReg 1344
20 CSR 2220	State Board of Pharmacy (<i>Changed from 4 CSR 220</i>)				31 MoReg 1344
20 CSR 2220-2.010	State Board of Pharmacy (<i>Changed from 4 CSR 220-2.010</i>)		This Issue		
20 CSR 2220-2.020	State Board of Pharmacy (<i>Changed from 4 CSR 220-2.020</i>)		This Issue		
20 CSR 2220-2.025	State Board of Pharmacy (<i>Changed from 4 CSR 220-2.025</i>)		This Issue		
20 CSR 2220-2.190	State Board of Pharmacy (<i>Changed from 4 CSR 220-2.190</i>)		This Issue		
20 CSR 2220-2.450	State Board of Pharmacy (<i>Changed from 4 CSR 220-2.450</i>)		This Issue		
20 CSR 2220-2.900	State Board of Pharmacy (<i>Changed from 4 CSR 220-2.900</i>)		This Issue		
20 CSR 2220-5.020	State Board of Pharmacy (<i>Changed from 4 CSR 220-5.020</i>)		This Issue		
20 CSR 2220-5.030	State Board of Pharmacy (<i>Changed from 4 CSR 220-5.030</i>)		This Issue		
20 CSR 2230	State Board of Podiatric Medicine (<i>Changed from 4 CSR 230</i>)				31 MoReg 1345
20 CSR 2231	Division of Professional Registration (<i>Changed from 4 CSR 231</i>)				31 MoReg 1346
20 CSR 2232	Missouri State Committee of Interpreters (<i>Changed from 4 CSR 232</i>)				31 MoReg 1346
20 CSR 2232-2.040	Missouri State Committee of Interpreters (<i>Changed from 4 CSR 232-2.040</i>)	This Issue	This Issue		
20 CSR 2233	State Committee of Marital and Family Therapists (<i>Changed from 4 CSR 233</i>)				31 MoReg 1346
20 CSR 2235	State Committee of Psychologists (<i>Changed from 4 CSR 235</i>)				31 MoReg 1346
20 CSR 2245	Real Estate Appraisers (<i>Changed from 4 CSR 245</i>)				31 MoReg 1347
20 CSR 2250	Missouri Real Estate Commission (<i>Changed from 4 CSR 250</i>)				31 MoReg 1348
20 CSR 2255	Missouri Board for Respiratory Care (<i>Changed from 4 CSR 255</i>)				31 MoReg 1349
20 CSR 2255-1.040	Missouri Board for Respiratory Care (<i>Changed from 4 CSR 255-1.040</i>)		31 MoReg 1402		
20 CSR 2255-2.010	Missouri Board for Respiratory Care (<i>Changed from 4 CSR 255-2.010</i>)		31 MoReg 1405		
20 CSR 2255-2.020	Missouri Board for Respiratory Care (<i>Changed from 4 CSR 255-2.020</i>)		31 MoReg 1407		
20 CSR 2255-2.030	Missouri Board for Respiratory Care (<i>Changed from 4 CSR 255-2.030</i>)		31 MoReg 1409		
20 CSR 2255-4.010	Missouri Board for Respiratory Care (<i>Changed from 4 CSR 255-4.010</i>)		31 MoReg 1411		
20 CSR 2263	State Committee for Social Workers (<i>Changed from 4 CSR 263</i>)				31 MoReg 1349
20 CSR 2263-1.035	State Committee for Social Workers (<i>Changed from 4 CSR 263-1.035</i>)		31 MoReg 1412		
20 CSR 2263-2.090	State Committee for Social Workers (<i>Changed from 4 CSR 263-2.090</i>)		31 MoReg 1415		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
20 CSR 2267	Office of Tattooing, Body Piercing and Branding <i>(Changed from 4 CSR 267)</i>				31 MoReg 1350
20 CSR 2270	Missouri Veterinary Medical Board <i>(Changed from 4 CSR 270)</i>				31 MoReg 1350
20 CSR 2270-1.050	Missouri Veterinary Medical Board <i>(Changed from 4 CSR 270-1.050)</i>		31 MoReg 1417		

Agency **Publication** **Expiration****Department of Agriculture****Office of the Director**

2 CSR 110-2.010	Description of General Organization; Definitions; Requirements of Eligibility, Licensing, Application for Grants; Procedures for Grant Disbursements; Record Keeping Requirements, and Verification Procedures for the Missouri Qualified Biodiesel Producer Incentive Program	31 MoReg 1293	February 23, 2007
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Department of Labor and Industrial Relations**Workers' Compensation**

8 CSR 50-2.030	Resolution of Medical Fee Disputes	31 MoReg 1377	February 27, 2007
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Department of Public Safety**Adjutant General**

11 CSR 10-5.010	Missouri Veterans' Recognition Program	31 MoReg 1380	February 24, 2007
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Department of Social Services**Children's Division**

13 CSR 35-60.010	Family Homes Offering Foster Care	31 MoReg 1295	January 30, 2007
13 CSR 35-60.030	Minimum Qualifications of Foster Parent(s)	31 MoReg 1296	January 30, 2007
13 CSR 35-100.010	Residential Treatment Agency Tax Credit	Next Issue	March 29, 2007
13 CSR 35-100.020	Emergency Resource Center Tax Credit	Next Issue	March 29, 2007

Family Support Division

13 CSR 40-60.010	Family Homes Offering Foster Care	31 MoReg 1297	January 30, 2007
13 CSR 40-60.030	Minimum Qualifications of Foster Parent(s)	31 MoReg 1297	January 30, 2007
13 CSR 40-79.010	Domestic Violence Shelter Tax Credit	Next Issue	March 29, 2007

Division of Medical Services

13 CSR 70-3.170	Medicaid Managed Care Organization Reimbursement Allowance	31 MoReg 899	November 10, 2006
13 CSR 70-3.170	Medicaid Managed Care Organization Reimbursement Allowance	31 MoReg 1047	December 28, 2006
13 CSR 70-4.080	Children's Health Insurance Program	31 MoReg 1048	December 28, 2006
13 CSR 70-10.015	Prospective Reimbursement Plan for Nursing Facility Services	31 MoReg 1050	December 28, 2006
13 CSR 70-10.080	Prospective Reimbursement Plan for HIV Nursing Facility Services . . .	31 MoReg 1051	December 28, 2006
13 CSR 70-15.110	Federal Reimbursement Allowance (FRA)	31 MoReg 900	November 15, 2006
13 CSR 70-15.110	Federal Reimbursement Allowance (FRA)	31 MoReg 1052	December 28, 2006
13 CSR 70-40.010	Optical Care Benefits and Limitations—Medicaid Program	31 MoReg 1052	December 28, 2006
13 CSR 70-60.010	Durable Medical Equipment Program	31 MoReg 1053	December 28, 2006

Elected Officials**Secretary of State**

15 CSR 30-10.010	Definitions	31 MoReg 1129	February 22, 2007
15 CSR 30-10.020	Certification Statements for New or Modified Electronic Voting Systems	31 MoReg 1130	February 22, 2007
15 CSR 30-10.130	Voter Education and Voting Device Preparation (DREs and Precinct Counters)	31 MoReg 1132	February 22, 2007
15 CSR 30-10.140	Electronic Ballot Tabulation—Counting Preparation and Logic and Accuracy Testing (DREs and Precinct Counters)	31 MoReg 1133	February 22, 2007
15 CSR 30-10.150	Closing Polling Places (Precinct Counters and DREs)	31 MoReg 1134	February 22, 2007
15 CSR 30-10.160	Electronic Ballot Tabulation—Election Procedures (Precinct Counters and DREs)	31 MoReg 1135	February 22, 2007

Department of Health and Senior Services**Missouri Health Facilities Review Committee**

19 CSR 60-50.300	Definitions for the Certificate of Need Process	31 MoReg 1382	February 23, 2007
19 CSR 60-50.400	Letter of Intent Process	31 MoReg 1382	February 23, 2007
19 CSR 60-50.410	Letter of Intent Package	31 MoReg 1383	February 23, 2007
19 CSR 60-50.430	Application Package	31 MoReg 1384	February 23, 2007
19 CSR 60-50.450	Criteria and Standards for Long-Term Care	31 MoReg 1385	February 23, 2007
19 CSR 60-50.470	Criteria and Standards for Financial Feasibility	31 MoReg 1386	February 23, 2007
19 CSR 60-50.600	Certificate of Need Decisions	31 MoReg 1386	February 23, 2007
19 CSR 60-50.700	Post-Decision Activity	31 MoReg 1387	February 23, 2007
19 CSR 60-50.800	Meeting Procedures	31 MoReg 1387	February 23, 2007
19 CSR 60-50.900	Administration	31 MoReg 1388	February 23, 2007

Department of Insurance, Financial Institutions and Professional Registration**Missouri State Committee of Interpreters**

20 CSR 2232-2.400	Certification Recognized by the Board	This Issue	February 27, 2007
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Executive Orders

Executive Orders	Subject Matter	Filed Date	Publication
2006			
06-01	Designates members of staff with supervisory authority over selected state agencies	January 10, 2006	31 MoReg 281
06-02	Extends the deadline for the State Retirement Consolidation Commission to issue its final report and terminate operations to March 1, 2006	January 11, 2006	31 MoReg 283
06-03	Creates and establishes the Missouri Healthcare Information Technology Task Force	January 17, 2006	31 MoReg 371
06-04	Governor Matt Blunt transfers functions, personnel, property, etc. of the Division of Finance, the State Banking Board, the Division of Credit Unions, and the Division of Professional Registration to the Department of Insurance. Renames the Department of Insurance as the Missouri Department of Insurance, Financial Institutions and Professional Registration. Effective August 28, 2006	February 1, 2006	31 MoReg 448
06-05	Governor Matt Blunt transfers functions, personnel, property, etc. of the Missouri Rx Plan Advisory Commission to the Missouri Department of Health and Senior Services. Effective August 28, 2006	February 1, 2006	31 MoReg 451
06-06	Governor Matt Blunt transfers functions, personnel, property, etc. of the Missouri Assistive Technology Advisory Council to the Missouri Department of Elementary and Secondary Education. Rescinds certain provisions of Executive Order 04-08. Effective August 28, 2006	February 1, 2006	31 MoReg 453
06-07	Governor Matt Blunt transfers functions, personnel, property, etc. of the Missouri Life Sciences Research Board to the Missouri Department of Economic Development	February 1, 2006	31 MoReg 455
06-08	Names the state office building, located at 1616 Missouri Boulevard, Jefferson City, Missouri, in honor of George Washington Carver	February 7, 2006	31 MoReg 457
06-09	Directs and orders that the Director of the Department of Public Safety is the Homeland Security Advisor to the Governor, reauthorizes the Homeland Security Advisory Council and assigns them additional duties	February 10, 2006	31 MoReg 460
06-10	Establishes the Government, Faith-based and Community Partnership	March 7, 2006	31 MoReg 577
06-11	Orders and directs the Adjutant General to call and order into active service such portions of the organized militia as he deems necessary to aid the executive officials of Missouri, to protect life and property and to employ such equipment as may be necessary in support of civilian authorities	March 13, 2006	31 MoReg 580
06-12	Declares that a State of Emergency exists in the State of Missouri and directs that the Missouri State Emergency Operation Plan be activated	March 13, 2006	31 MoReg 582
06-13	The Director of the Missouri Department of Natural Resources is vested with full discretionary authority to temporarily waive or suspend the operation of any statutory or administrative rule or regulation currently in place under his purview in order to best serve the public health and safety during the period of the emergency and the subsequent recovery period	March 13, 2006	31 MoReg 584
06-14	Declares a State of Emergency exists in the State of Missouri and directs that the Missouri State Emergency Operation Plan be activated	April 3, 2006	31 MoReg 643
06-15	Orders and directs the Adjutant General, or his designee, to call and order into active service portions of the organized militia as he deems necessary to aid the executive officials of Missouri, to protect life and property, and take such action and employ such equipment as may be necessary in support of civilian authorities, and provide assistance as authorized and directed by the Governor	April 3, 2006	31 MoReg 645
06-16	Declares that a State of Emergency exists in the State of Missouri, directs that the Missouri State Emergency Operations Plan be activated	April 3, 2006	31 MoReg 647
06-17	Declares that a State of Emergency exists in the State of Missouri, directs that the Missouri State Emergency Operations Plan be activated	April 3, 2006	31 MoReg 649
06-18	Authorizes the investigators from the Division of Fire Safety, the Park Rangers from the Department of Natural Resources, the Conservation Agents from the Department of Conservation, and other POST certified state agency investigators to exercise full state wide police authority as vested in Missouri peace officers pursuant to Chapter 590, RSMo during the period of this state declaration of emergency	April 3, 2006	31 MoReg 651
06-19	Allows the director of the Missouri Department of Natural Resources to grant waivers to help expedite storm recovery efforts	April 3, 2006	31 MoReg 652
06-20	Creates interim requirements for overdimension and overweight permits for commercial motor carriers engaged in storm recovery efforts	April 5, 2006	31 MoReg 765
06-21	Designates members of staff with supervisory authority over selected state agencies	June 2, 2006	31 MoReg 1055

**Executive
Orders****Subject Matter****Filed Date****Publication**

06-22	Healthy Families Trust Fund	June 22, 2006	31 MoReg 1137
06-23	Establishes Interoperable Communication Committee	June 27, 2006	31 MoReg 1139
06-24	Establishes Missouri Abraham Lincoln Bicentennial Commission	July 3, 2006	31 MoReg 1209
06-25	Declares that a State of Emergency exists in the State of Missouri, directs that the Missouri State Emergency Operations Plan be activated	July 20, 2006	31 MoReg 1298
06-26	Directs the Adjutant General to call and order into active service such portions of the organized militia as he deems necessary to aid the executive officials of Missouri, to protect life and property, and to support civilian authorities	July 20, 2006	31 MoReg 1300
06-27	Allows the director of the Missouri Department of Natural Resources to grant waivers to help expedite storm recovery efforts	July 21, 2006	31 MoReg 1302
06-28	Authorizes Transportation Director to issue declaration of regional or local emergency with reference to motor carriers	July 22, 2006	31 MoReg 1304
06-29	Authorizes Transportation Director to temporarily suspend certain commercial motor vehicle regulations in response to emergencies	August 11, 2006	31 MoReg 1389
06-30	Extends the declaration of emergency contained in Executive Order 06-25 and the terms of Executive Order 06-27 through September 22, 2006, for the purpose of continuing the cleanup efforts in the east central part of the State of Missouri	August 18, 2006	This Issue

2005

05-01	Rescinds Executive Order 01-09	January 11, 2005	30 MoReg 261
05-02	Restricts new lease and purchase of vehicles, cellular phones, and office space by executive agencies	January 11, 2005	30 MoReg 262
05-03	Closes state's Washington D.C. office	January 11, 2005	30 MoReg 264
05-04	Authorizes Transportation Director to issue declaration of regional or local emergency with reference to motor carriers	January 11, 2005	30 MoReg 266
05-05	Establishes the 2005 Missouri State Government Review Commission	January 24, 2005	30 MoReg 359
05-06	Bans the use of video games by inmates in all state correctional facilities	January 24, 2005	30 MoReg 362
05-07	Consolidates the Office of Information Technology to the Office of Administration's Division of Information Services	January 26, 2005	30 MoReg 363
05-08	Consolidates the Division of Design and Construction to Division of Facilities Management, Design and Construction	February 2, 2005	30 MoReg 433
05-09	Transfers the Missouri Head Injury Advisory Council to the Department of Health and Senior Services	February 2, 2005	30 MoReg 435
05-10	Transfers and consolidates in-home care for elderly and disabled individuals from the Department of Elementary and Secondary Education and the Department of Social Services to the Department of Health and Senior Services	February 3, 2005	30 MoReg 437
05-11	Rescinds Executive Order 04-22 and orders the Department of Health and Senior Services and all Missouri health care providers and others that possess influenza vaccine adopt the Center for Disease Control and Prevention, Advisory Committee for Immunization Practices expanded priority group designations as soon as possible and update the designations as necessary	February 3, 2005	30 MoReg 439
05-12	Designates members of staff with supervisory authority over selected state agencies	March 8, 2005	30 MoReg 607
05-13	Establishes the Governor's Advisory Council for Plant Biotechnology	April 26, 2005	30 MoReg 1110
05-14	Establishes the Missouri School Bus Safety Task Force	May 17, 2005	30 MoReg 1299
05-15	Establishes the Missouri Task Force on Eminent Domain	June 28, 2005	30 MoReg 1610
05-16	Transfers all power, duties and functions of the State Board of Mediation to the Labor and Industrial Relations Commission of Missouri	July 1, 2005	30 MoReg 1612
05-17	Declares a DROUGHT ALERT for the counties of Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Howell, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Pike, Ralls, Reynolds, Ripley, Ste. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne	July 5, 2005	30 MoReg 1693
05-18	Directs the Director of the Department of Insurance to adopt rules to protect consumer privacy while providing relevant information about insurance companies to the public	July 12, 2005	30 MoReg 1695
05-19	Creates the Insurance Advisory Panel to provide advice to the Director of Insurance	July 19, 2005	30 MoReg 1786
05-20	Establishes the Missouri Homeland Security Advisory Council. Creates the Division of Homeland Security within the Department of Public Safety. Rescinds Executive Orders 02-15 and 02-16	July 21, 2005	30 MoReg 1789
05-21	Creates and amends Meramec Regional Planning Commission to include Pulaski County	August 22, 2005	30 MoReg 2006

Executive Orders	Subject Matter	Filed Date	Publication
05-22	Establishes the State Retirement Consolidation Commission	August 26, 2005	30 MoReg 2008
05-23	Acknowledges regional state of emergency and temporarily waives regulatory requirements for vehicles engaged in interstate disaster relief	August 30, 2005	30 MoReg 2010
05-24	Implements the Emergency Mutual Assistance Compact (EMAC) with the state of Mississippi, directs SEMA to activate the EMAC plan, authorizes use of the Missouri National Guard	August 30, 2005	30 MoReg 2013
05-25	Implements the Emergency Mutual Assistance Compact (EMAC) with the state of Louisiana, directs SEMA to activate the EMAC plan, authorizes use of the Missouri National Guard	August 30, 2005	30 MoReg 2015
05-26	Declares a state of emergency in Missouri and suspends rules and regulations regarding licensing of healthcare providers while treating Hurricane Katrina evacuees	September 2, 2005	30 MoReg 2129
05-27	Directs all relevant state agencies to facilitate the temporary licensure of any healthcare providers accompanying and/or providing direct care to evacuees	September 2, 2005	30 MoReg 2131
05-28	Declares that a State of Emergency exists in the State of Missouri, directs that the Missouri State Emergency Operations Plan be activated, and authorizes the use of state agencies to provide support to the relocation of Hurricane Katrina disaster victims	September 4, 2005	30 MoReg 2133
05-29	Directs the Adjutant General call and order into active service such portions of the organized militia as he deems necessary to aid the executive officials of Missouri, to protect life and property, and to support civilian authorities	September 4, 2005	30 MoReg 2135
05-30	Governor Matt Blunt establishes the Office of Supplier and Workforce Diversity to replace the Office of Equal Opportunity. Declares policies and procedures for procuring goods and services and remedying discrimination against minority and women-owned business enterprises	September 8, 2005	30 MoReg 2137
05-31	Assigns the Missouri Community Service Commission to the Department of Economic Development	September 14, 2005	30 MoReg 2227
05-32	Grants leave to additional employees participating in disaster relief services	September 16, 2005	30 MoReg 2229
05-33	Directs the Department of Corrections to lead an interagency steering team for the Missouri Reentry Process (MRP)	September 21, 2005	30 MoReg 2231
05-34	Orders the Adjutant General to call into active service portions of the militia in response to the influx of Hurricane Rita victims	September 23, 2005	30 MoReg 2233
05-35	Declares a State of Emergency, directs the State Emergency Operations Plan be activated, and authorizes use of state agencies to provide support for the relocation of Hurricane Rita victims	September 23, 2005	30 MoReg 2235
05-36	Acknowledges regional state of emergency and temporarily waives regulatory requirements for commercial vehicles engaged in interstate disaster relief	September 23, 2005	30 MoReg 2237
05-37	Closes state offices on Friday, November 25, 2005	October 11, 2005	30 MoReg 2383
05-38	Implements the EMAC with the State of Florida in response to Hurricane Wilma	October 21, 2005	30 MoReg 2470
05-39	Acknowledges continuing regional state of emergency, temporarily limits regulatory requirements for commercial vehicles engaged in interstate disaster relief, and rescinds orders 05-23 and 05-36	October 25, 2005	30 MoReg 2472
05-40	Amends Executive Order 98-15 to increase the Missouri State Park Advisory Board from eight to nine members	October 26, 2005	30 MoReg 2475
05-41	Creates and establishes the Governor's Advisory Council for Veterans Affairs	November 14, 2005	30 MoReg 2552
05-42	Establishes the National Incident Management System (NIMS) as the standard for emergency incident management in the State of Missouri	November 14, 2005	30 MoReg 2554
05-43	Creates and establishes the Hispanic Business, Trade and Culture Commission and abolishes the Missouri Governor's Commission on Hispanic Affairs	November 30, 2005	31 MoReg 93
05-44	Declares a state of emergency and activates the Missouri State Emergency Operations Plan as a result of the failure of the dam at Taum Sauk Reservoir	December 14, 2005	31 MoReg 96
05-45	Directs the Adjutant General to activate the organized militia as needed as a result of the failure of the dam at Taum Sauk Reservoir	December 14, 2005	31 MoReg 97
05-46	Creates and establishes the Missouri Energy Task Force	December 27, 2005	31 MoReg 206
05-47	Directs that the issuance of overdimension and overweight permits by the Missouri Department of Transportation for commercial motor carriers engaged in cleanup efforts in Reynolds County resulting from the Taum Sauk Upper Reservoir failure shall be subject to interim application requirements	December 29, 2005	31 MoReg 279

The rule number and the MoReg publication date follow each entry to this index.

ACCOUNTANCY, STATE BOARD OF

compensation; 4 CSR 10-1.020 (*changed to 20 CSR 2010-1.020*);
5/1/06, 10/2/06
definitions; 4 CSR 10-2.005 (*changed to 20 CSR 2010-2.005*);
5/1/06, 10/2/06
examination
application; 4 CSR 10-2.130 (*changed to 20 CSR 2010-2.130*);
5/1/06, 10/2/06
eligibility requirements; 4 CSR 10-2.041 (*changed to*
20 CSR 2010-2.041); 5/1/06, 10/2/06
granting of credit; 4 CSR 10-2.140 (*changed to*
20 CSR 2010-2.140); 5/1/06, 10/2/06
procedures; 4 CSR 10-2.150 (*changed to*
20 CSR 2010-2.150); 5/1/06, 10/2/06
fees; 4 CSR 10-2.160 (*changed to 20 CSR 2010-2.160*); 5/1/06,
10/2/06
license to practice, provisional; 4 CSR 10-2.022 (*changed to*
20 CSR 2010-2.022); 5/1/06, 10/2/06
licensure through reciprocity; 4 CSR 10-2.065; (*changed to*
20 CSR 2010-2.065) 5/1/06, 10/2/06
organization; 4 CSR 10-1.010 (*changed to 20 CSR 2010-1.010*);
5/1/06, 10/2/06
permits
renewal of firm; 4 CSR 10-2.072 (*changed to*
20 CSR 2010-2.072); 5/1/06, 10/2/06
renewals; 4 CSR 10-2.070 (*changed to 20 CSR 2010-2.070*);
5/1/06, 10/2/06
registration; 4 CSR 10-2.051 (*changed to 20 CSR 2010-2.051*);
5/1/06, 10/2/06
reinstatement of license; 4 CSR 10-2.075 (*changed to*
20 CSR 2010-2.075); 5/1/06, 10/2/06
subpoena power; 4 CSR 10-1.050 (*changed to 20 CSR 2010-1.050*);
5/1/06, 10/2/06

ADMINISTRATION, OFFICE OF

travel regulations; 1 CSR 10-11.030; 10/2/06

ADMINISTRATIVE HEARING COMMISSION

complaints; 1 CSR 15-3.350; 7/3/06
discovery; 1 CSR 15-3.420; 7/3/06
intervention; 1 CSR 15-3.390; 7/3/06
operation, general; 1 CSR 15-1.204; 7/3/06
prehearing conferences; 1 CSR 15-3.470; 7/3/06
subject matter; 1 CSR 15-3.200; 7/3/06

ADOPT-A-HIGHWAY PROGRAM

agreement; 7 CSR 10-14.040; 2/15/06, 7/17/06
modification, termination; 7 CSR 10-14.060; 2/15/06,
7/17/06
application; 7 CSR 10-14.030; 2/15/06, 7/17/06
definitions; 7 CSR 10-14.020; 2/15/06, 7/17/06
purpose; 7 CSR 10-14.010; 2/15/06, 7/17/06
sign; 7 CSR 10-14.050; 2/15/06, 7/17/06

AIR QUALITY, POLLUTION

construction permit exemptions; 10 CSR 10-6.061; 1/3/06, 6/15/06
control of NO_x emissions from upwind sources; 10 CSR 10-6.345;
6/15/06
emissions
hazardous air pollutants; 10 CSR 10-6.080; 6/15/06
metal solvent cleaning; 10 CSR 10-5.300; 5/1/06, 10/2/06
maximum achievable control technology; 10 CSR 10-6.075;
6/15/06
new source performance; 10 CSR 10-6.070; 6/15/06
submission of emission data, fees, process information;
10 CSR 10-6.110; 6/15/06

AMBULANCES

emergency program; 13 CSR 70-6.010; 3/15/06, 9/1/06

ANESTHESIOLOGIST ASSISTANTS

advisory commission; 4 CSR 150-9.140; 2/15/06, 7/3/06
code of ethics; 4 CSR 150-9.130; 2/15/06, 7/3/06
continuing education; 4 CSR 150-9.070; 2/15/06, 7/3/06, 7/17/06
definitions; 4 CSR 150-9.010; 2/15/06, 7/3/06
employment, changes, retirement affidavit; 4 CSR 150-9.110;
2/15/06, 7/3/06
fees; 4 CSR 150-9.080; 2/15/06, 7/3/06
license, duplicate; 4 CSR 150-9.120; 2/15/06, 7/3/06
licensure
applicants; 4 CSR 150-9.030; 2/15/06, 7/3/06
effective date; 4 CSR 150-9.020; 2/15/06, 7/3/06
reinstatement requirements; 4 CSR 150-9.100; 2/15/06,
7/3/06
renewal; 4 CSR 150-9.060; 2/15/06, 7/3/06
temporary licensure
applicants; 4 CSR 150-9.050; 2/15/06, 7/3/06
renewal; 4 CSR 150-9.051; 2/15/06, 7/3/06
registration, late; 4 CSR 150-9.090; 2/15/06, 7/3/06
supervision agreement; 4 CSR 150-9.040; 2/15/0, 7/3/06

ANIMAL HEALTH

import prohibition; 2 CSR 30-2.014; 2/15/06, 4/3/06
inspection of meat and poultry; 2 CSR 30-10.010; 3/15/06, 7/3/06

ARCHITECTS, PROFESSIONAL ENGINEERS, PROFESSIONAL LAND SURVEYORS, LANDSCAPE ARCHITECTS

application
criteria to file under 327.391; 4 CSR 30-4.050; 1/3/06,
5/15/06
renewal, reinstatement, reregistration, fees; 4 CSR 30-6.015;
1/3/06, (*changed to 20 CSR 2030-6.015*) 9/15/06
baccalaureate degree; 4 CSR 30-14.020; 1/3/06, 5/15/06
board compensation; 4 CSR 30-1.020; 1/3/06, 5/15/06
code of professional conduct; 4 CSR 30-2.010; 1/3/06, 5/15/06
definitions
Chapter 17; 4 CSR 30-17.010; 1/3/06, 5/15/06
Chapter 18; 4 CSR 30-18.010; 1/3/06, 5/15/06
Chapter 20; 4 CSR 30-20.010; 1/3/06, 5/15/06
examinations
architects, NCARB; 4 CSR 30-5.020; 1/3/06, 5/15/06
engineers, NCEES; 4 CSR 30-5.070; 1/3/06, 5/15/06
fees, reexamination; 4 CSR 30-6.020; 1/3/06, 5/15/06
land surveying matters; 4 CSR 30-8.010; 1/3/06
nonresidents; 4 CSR 30-7.010; 1/3/06, 5/15/06
renewal period; 4 CSR 30-11.010; 1/3/06, 5/15/06
report, surveyor's real property; 4 CSR 30-19.010; 1/3/06,
5/15/06
supervisor, immediate personal; 4 CSR 30-13.010; 1/3/06, 5/15/06
land surveyors; 4 CSR 30-13.020; 1/3/06, 5/15/06

ATHLETICS, OFFICE OF

contestants; 4 CSR 40-4.090; 9/1/06
physicians; 4 CSR 40-4.040; 9/1/06

AUDITOR, OFFICE OF THE STATE

financial reports, political subdivisions; 15 CSR 40-3.030; 8/1/06

BEVERAGE MANUFACTURERS AND DISTRIBUTORS

licensing, collection of fees; 19 CSR 20-1.060; 5/16/05

BINGO

card; 11 CSR 45-30.035; 3/1/06, 8/1/06
electronic bingo card monitoring devices; 11 CSR 45-30.600;
3/1/06, 8/1/06
information, additional; 11 CSR 45-30.090; 3/1/06, 8/1/06
manufacturer, defined; 11 CSR 45-30.390; 3/1/06, 8/1/06
package deals, tying arrangements prohibited; 11 CSR 45-30.480;
3/1/06, 8/1/06
record keeping requirements; 11 CSR 45-30.175; 3/1/06, 8/1/06
wireless technology; 11 CSR 45-30.610; 3/1/06, 8/1/06
worker-player; 11 CSR 45-30.140; 3/1/06, 8/1/06

BIODIESEL PRODUCER INCENTIVE PROGRAM

organization; 2 CSR 110-2.010; 9/1/06

BOILER AND PRESSURE VESSELS

code, standards; 11 CSR 40-2.015; 2/15/06, 5/15/06
definitions; 11 CSR 40-2.010; 2/15/06, 5/15/06, 6/1/06
heating boiler; 11 CSR 40-2.040; 2/15/06, 5/15/06
installation permits; 11 CSR 40-2.025; 6/1/06
power boiler; 11 CSR 40-2.030; 2/15/06, 5/15/06

CERTIFICATE OF NEED

administration; 19 CSR 60-50.900; 9/15/06
application process; 19 CSR 60-50.430; 9/15/06
criteria and standards
financial feasibility; 19 CSR 60-50.470; 9/15/06
long-term care; 19 CSR 60-50.450; 9/15/06
decisions; 19 CSR 60-50.600; 9/15/06
definitions; 19 CSR 60-50.300; 9/15/06
letter of intent
package; 19 CSR 60-50.410; 9/15/06
process; 19 CSR 60-50.400; 9/15/06
meeting procedures; 19 CSR 60-50.800; 9/15/06
post-decision activity; 19 CSR 60-50.700; 9/15/06

CHILDREN'S DIVISION

care of children; 13 CSR 35-60.050; 9/1/06
family homes offering foster care; 13 CSR 35-60.010; 9/1/06
number of children; 13 CSR 35-60.020; 9/1/06
physical standards, foster homes; ; 13 CSR 35-60.040; 9/1/06
qualifications, foster parents; 13 CSR 35-60.030; 9/1/06
records and reports; 13 CSR 35-60.060; 9/1/06

CLEAN WATER COMMISSION

hearings, appeals, requests; 10 CSR 20-1.020; 6/1/06

CONSERVATION COMMISSION

boats, motors; 3 CSR 10-12.110; 4/17/06, 7/3/06;
bullfrogs, green frogs; 3 CSR 10-12.115; 4/17/06, 7/3/06
deer hunting
archery season; 3 CSR 10-7.432; 7/3/06
firearms season; 3 CSR 10-7.433; 7/3/06
landowner; 3 CSR 10-7.434; 7/3/06
seasons; 3 CSR 10-7.431; 7/3/06
endangered species; 3 CSR 10-4.111; 5/15/06, 10/2/06
falconry; 3 CSR 10-9.442; 10/2/06
fishing
commercial; 3 CSR 10-10.725; 10/17/05, 1/3/06, 4/17/06,
7/3/06
length limits; 3 CSR 10-12.145; 4/17/06, 7/3/06
limits, daily and possession;
3 CSR 10-12.140; 4/17/06, 7/3/06, 10/2/06
methods; 3 CSR 10-12.135; 4/17/06, 7/3/06, 10/2/06
methods, hours; 3 CSR 10-11.205; 4/17/06, 7/3/06
provisions, seasons; 3 CSR 10-12.130; 7/3/06
reciprocal privileges; 3 CSR 10-10.726; 7/3/06
trout parks; 3 CSR 10-12.150; 10/2/06
fur buyer's permit
resident; 3 CSR 10-10.710; 4/17/06, 7/3/06
fur dealer's permit
nonresident; 3 CSR 10-10.708; 4/17/06, 7/3/06

reports, requirements; 3 CSR 10-10.715; 4/17/06, 7/3/06
resident; 3 CSR 10-10.707; 4/17/06, 7/3/06
hunting
provisions, seasons; 3 CSR 10-11.180; 4/17/06, 7/3/06
trapping; 3 CSR 10-12.125; 4/17/06, 7/3/06
licensed hunting preserve; 3 CSR 10-9.565; 5/15/06
migratory game birds; 3 CSR 10-7.440; 8/15/06, 10/2/06
National Guard, Reserve, small game hunting and fishing permit;
3 CSR 10-5.331; 3/1/06, 5/15/06
organization; 3 CSR 10-1.010; 7/17/06, 10/2/06
pets, hunting dogs; 3 CSR 10-11.120; 4/17/06, 7/3/06
permit
fur buyers; 3 CSR 10-10.710; 7/3/06
fur dealers; 3 CSR 10-10.707; 7/3/06
nonresident fur dealers; 3 CSR 10-10.708; 7/3/06
shovelnose sturgeon, commercial harvest;
3 CSR 10-10.722; 10/17/05, 1/3/06, 7/3/06, 9/15/06
nonresident; 3 CSR 10-10.724; 7/3/06
prohibitions, application
3 CSR 10-9.110; 5/15/06, 8/1/06
regulations, department areas; 3 CSR 10-7.438; 7/3/06
transportation; 3 CSR 10-4.135; 4/17/06, 7/3/06
turkeys; 3 CSR 10-7.455; 2/1/06, 7/3/06, 10/2/06
wild plants, plant products, mushrooms; 3 CSR 10-11.135;
4/17/06, 7/3/06
CREDIT UNION COMMISSION
definitions; 4 CSR 105-3.010; 4 CSR 105-3.011,
4 CSR 105-3.012; 7/17/06

CREDIT UNIONS, DIVISION OF

mergers, consolidations; 4 CSR 100-2.075; 7/17/06

DENTAL BOARD

addressing the public; 4 CSR 110-2.110 (*changed to*
20 CSR 2110-2.110); 9/15/06
patient abandonment; 4 CSR 110-2.114 (*changed to*
20 CSR 2110-2.114); 9/15/06

DISEASES, COMMUNICABLE, ENVIRONMENTAL, OCCUPATIONAL

definitions; 19 CSR 20-20.010; 3/15/06, 8/15/06
laboratories, duties of; 19 CSR 20-20.080; 3/15/06, 8/15/06
reporting; 19 CSR 20-20.020; 3/15/06, 8/15/06

DIETITIANS, STATE COMMITTEE OF

fees; 4 CSR 115-1.040; 2/15/06, 6/15/06
inactive status; 4 CSR 115-2.045; 2/15/06, 6/15/06

DRIVERS LICENSE BUREAU

school bus program
authority to administer permit examination; 12 CSR
10-24.400; 2/1/06, 5/15/06
waiver of written examination; 12 CSR 10-24.370; 2/1/06,
5/15/06

ELECTIONS DIVISION

uniform counting standards
optical scan voting systems; 15 CSR 30-9.020; 3/15/06,
6/1/06, 6/15/06
paper ballots; 15 CSR 30-9.030; 3/15/06, 6/1/06, 6/15/06
voting machines (electronic)
certification statements; 15 CSR 30-10.020; 8/1/06
closing polling places; 15 CSR 30-10.150; 8/1/06
definitions; 15 CSR 30-10.010; 8/1/06
electronic ballot tabulation
counting preparation, logic, accuracy testing;
15 CSR 30-10.140; 8/1/06
election procedures; 15 CSR 30-10.160; 8/1/06
voter education, device preparation; 15 CSR 30-10.130;
8/1/06

ELEMENTARY AND SECONDARY EDUCATION

education programs, procedures, standards; 5 CSR 80-805.015; 8/15/06
 professional education
 innovative, alternative programs; 5 CSR 80-805.030; 6/1/06
 provisions, general; 5 CSR 30-345.010; 9/15/06
 school bus chassis and body; 5 CSR 30-261.025; 7/3/06
 school district names; 5 CSR 30-260.010; 6/1/06
 waiver of regulations; 5 CSR 50-345.020; 8/15/06

EMBALMERS AND FUNERAL DIRECTORS

funeral directing; 4 CSR 120-2.060; 4/3/06; 8/1/06

EMERGENCY MEDICAL SERVICES

fees; 19 CSR 30-40.450; 7/3/06

ENERGY ASSISTANCE

low income energy assistance; 13 CSR 40-19.020; 10/3/05

EXECUTIVE ORDERS

Abraham Lincoln Bicentennial Commission; 06-24; 8/15/06
 Department of Finance, State Banking Board, and Division of Professional Registration transfer to Department of Insurance; 06-04; 3/15/06
 emergency declaration which requires suspension of federal and commercial motor vehicle and driver laws; 06-29; 9/15/06
 Energy Task Force, Missouri; 05-46; 2/1/06
 Government, Faith-based and Community Partnership; 06-10; 4/17/06
 governor's staff, supervisory authority, departments; 06-02, 2/15/06; 06-21, 7/17/06
 Healthcare Information Technology Task Force; 06-03; 3/1/06
 Healthy Families Trust Fund; 06-22; 8/1/06
 Homeland Security Advisory Council
 established in the Department of Public Safety; 06-09; 3/15/06
 Missouri Assistive Technology Advisory Council transfers to Department of Elementary and Secondary Education; 06-06; 3/15/06
 Missouri Life Sciences Research Board transfers to the Department of Economic Development; 06-07; 3/15/06
 Missouri Rx Plan Advisory Commission transfers to the Department of Social Services; 06-05; 3/15/06
 public safety demands during the period of emergency; 06-18; 5/1/06
 renames 1616 Missouri Blvd the George Washington Carver State Office Building; 06-08; 3/15/06
 severe weather April 2
 Adjutant General to call organized militia into active service; 06-15; 5/1/06
 Emergency Operations Plan to be activated; 06-14; 5/1/06
 motor vehicle federal requirements suspended; 06-20; 5/15/06
 severe weather July 19
 Adjutant General to call organized militia into active service; 06-26; 9/1/06
 Department of Natural Resources to waive rules during recovery period; 06-27; 9/1/06
 Emergency Operations Plan to be activated; 06-25; 9/1/06
 extension of time in Executive Orders 06-25 and 06-27; 06-30; 10/2/06
 motor vehicle federal requirements suspended; 06-28; 9/1/06
 severe weather March 8
 Emergency Operations Plan to be activated; 06-17; 5/1/06
 severe weather March 29
 Emergency Operations Plan to be activated; 06-16; 5/1/06
 Department of Natural Resources to waive rules during recovery period; 06-19; 5/1/06
 State Retirement Consolidation Commission
 final report deadline; 06-01; 2/15/06
 Statewide Interoperability Executive Committee; 06-23; 8/1/06
 storms of March 11, 2006
 Adjutant General to call organized militia into active service; 06-11; 4/17/06

Department of Natural Resources to waive rules during recovery period; 06-13; 4/17/06
 Emergency Operations Plan to be activated; 06-12; 4/17/06
 Taum Sauk Reservoir
 transportation of equipment; 05-47; 2/15/06

FAMILY SUPPORT DIVISION

care of children; 13 CSR 40-60.050; 9/1/06
 family homes offering foster care; 13 CSR 40-60.010; 9/1/06
 fee for successful support collections, annual; 13 CSR 40-110.030; 5/1/06, 8/15/06
 number of children; 13 CSR 40-60.020; 9/1/06
 physical standards for foster homes; 13 CSR 40-60.040; 9/1/06
 qualifications, foster parents; 13 CSR 40-60.030; 9/1/06
 records and reports; 13 CSR 40-60.060; 9/1/06

GAMING COMMISSION, MISSOURI

accepting checks; 11 CSR 45-8.170; 3/1/06
 applicant's duty to disclose changes; 11 CSR 45-10.020; 5/1/06, 10/2/06
 applications; 11 CSR 45-12.040; 10/2/06
 audits; 11 CSR 45-8.060; 5/1/06, 10/2/06
 chips, tokens, coupons; 11 CSR 45-5.180; 10/2/06
 commission records; 11 CSR 45-3.010; 5/1/06, 10/2/06
 electronic gaming devices
 standards, minimum; 11 CSR 45-5.190; 10/2/06
 excursion liquor license defined; 11 CSR 45-12.020; 10/2/06
 liquor control, rules of; 11 CSR 45-12.090; 10/2/06
 occupational licenses; 11 CSR 45-4.260; 5/1/06, 10/2/06
 refund, claim for refund; 11 CSR 45-11.110; 10/2/06
 return, gaming tax; 11 CSR 45-11.040; 10/2/06
 shipping of electronic gaming devices; 11 CSR 45-5.237; 8/1/06
 slot machines, progressive; 11 CSR 45-5.200; 10/2/06
 storage and retrieval; 11 CSR 45-7.080; 9/1/06
 surveillance
 equipment; 11 CSR 45-7.030; 9/1/06
 required; 11 CSR 45-7.040; 9/1/06
 system plans; 11 CSR 45-7.120; 9/1/06
 timeliness, extensions for filing a return; 11 CSR 45-11.090; 10/2/06

HAZARDOUS WASTE MANAGEMENT COMMISSION

definitions; 10 CSR 25-3.260; 5/1/06
 land disposal restrictions; 10 CSR 25-7.268; 5/1/06
 methods of identifying waste; 10 CSR 25-4.261; 5/1/06
 permit programs; 10 CSR 25-7.270; 5/1/06
 recycled used oil; 10 CSR 25-11.279; 5/1/06
 standards applicable to
 facilities, specific types; 10 CSR 25-7.266; 5/1/06
 generators; 10 CSR 25-5.262; 5/1/06
 owners, operators; 10 CSR 25-7.264; 5/1/06
 interim status; 10 CSR 25-7.265; 5/1/06
 transporters; 10 CSR 25-6.263; 5/1/06
 universal waste management; 10 CSR 25-16.273; 5/1/06

HEALTH CARE PLAN, MISSOURI CONSOLIDATED

benefit provisions, covered charges
 PPO plan; 22 CSR 10-2.050; 2/1/06, 5/15/06
 definitions; 22 CSR 10-2.010; 2/1/06, 5/15/06
 HMO/POS standard option, summary; 22 CSR 10-2.064; 2/1/06, 5/15/06
 limitations
 HMO and POS; 22 CSR 10-2.067; 2/1/06, 5/15/06
 PPO and co-pay plans; 22 CSR 10-2.060; 2/1/06, 5/15/06
 membership agreement, participation plan; 22 CSR 10-2.020; 2/1/06, 5/15/06
 pharmacy benefit summary; 22 CSR 10-2.090; 2/1/06, 5/15/06

HIGHWAYS AND TRANSPORTATION COMMISSION

construction disputes
 arbitration; 7 CSR 10-26.010; 2/15/06, 7/17/06
 mediation; 7 CSR 10-26.020; 2/15/06, 7/17/06

description, organization, information; 7 CSR 10-1.010; 7/17/06
notice given to consumers by carriers; 7 CSR 10-25.040; 6/15/06

HOSPITALS

organization; 19 CSR 30-20.021; 10/3/05, 2/15/06, 6/15/06

INSURANCE, DEPARTMENT OF

annuities

disclosure of material facts; 20 CSR 400-5.410; 8/15/06

business names, registration; 20 CSR 700-6.350; 6/15/06

derivatives for replication transactions; 20 CSR 200-1.170;

1/17/06, 5/1/06

early intervention part C coverage; 20 CSR 400-2.170; 2/1/06,
5/15/06

fees and renewals; 20 CSR 700-6.100; 2/1/06, 5/15/06

financial statement and diskette filing; 20 CSR 200-1.030;

1/17/06, 5/1/06

health benefit plans; 20 CSR 400-2.135; 10/2/06

holding company system, forms, instructions; 20 CSR 200-11.101;

5/15/06, 9/15/06

interpretation of referenced or adopted materials;

20 CSR 10-1.020; 4/3/06, 7/17/06

medical malpractice award; 20 CSR; 3/3/03, 3/15/04, 3/1/05,

4/17/06

service contracts

faithful performance of provider; 20 CSR 200-18.020; 8/1/06

registration of administrators; 20 CSR 200-18.010; 8/1/06

sovereign immunity limits; 20 CSR; 12/15/03, 1/3/05, 12/15/05

surplus lines insurance, fees, taxes; 20 CSR 200-6.300; 9/15/06

INTERPRETERS, MISSOURI STATE COMMITTEE OF

certification recognized by board; 4 CSR 232-2.040 (*changed to*
20 CSR 2232-2.040); 10/2/06

principles, general; 4 CSR 232-3.010; 1/3/06, 5/15/06, 8/15/06

LABORATORIES

duties of; 19 CSR 20-20.080; 2/15/06, 3/15/06, 8/15/06

LAND RECLAMATION COMMISSION

bond requirements; 10 CSR 40-7.011; 1/3/06, 2/1/06, 6/1/06

duration, release of reclamation liability; 10 CSR 40-7.021; 1/3/06,
2/1/06, 6/1/06

fund, form and administration; 10 CSR 40-7.041; 1/3/06, 2/1/06,
6/1/06

permit revocation, bond forfeiture, authorization to expend fund
monies; 10 CSR 40-7.031; 1/3/06, 2/1/06, 6/1/06

LIBRARY, STATE

state publications access program; 15 CSR 30-200.100; 4/3/06,
8/1/06

LIQUOR CONTROL

using minors in beer investigations; 11 CSR 70-2.280; 2/15/06,
7/17/06

LONG-TERM CARE, NURSING FACILITIES

certification; 19 CSR 30-81.010; 12/1/05, 3/15/06

construction standards; 19 CSR 30-86.012; 12/15/04, 4/15/05

resident rights; 19 CSR 30-88.010; 1/17/06, 6/1/06

LOTTERY, MISSOURI

claim period; 12 CSR 40-80.080; 12/15/05, 5/15/06

MEDICAL SERVICES, DIVISION OF

children's health insurance program; 13 CSR 70-4.080; 7/17/06
comprehensive day rehabilitation program; 13 CSR 70-99.010;
7/3/06

durable medical equipment; 13 CSR 70-60.010; 6/15/06, 7/17/06,
10/2/06

emergency ambulance program; 13 CSR 70-6.010; 3/15/06, 8/1/06

federal reimbursement allowance; 13 CSR 70-15.110; 6/15/06,

7/17/06, 10/2/06

filing of claims, Medicaid; 13 CSR 70-3.100; 7/17/06

hearing aid program; 13 CSR 70-45.010; 7/17/06

home health-care services; 13 CSR 70-90.010; 7/3/06

managed care organization reimbursement allowance;

13 CSR 70-3.170; 6/15/06, 7/17/06

medical pre-certification process; 13 CSR 70-3.180; 8/1/06

optical care benefits; 13 CSR 70-40.010; 6/15/06, 7/17/06, 10/2/06

organization; 13 CSR 70-1.010; 5/15/06, 9/1/06

private duty nursing; 13 CSR 70-95.010; 7/3/06

rehabilitation center program; 13 CSR 70-65.010; 7/3/06

reimbursement

HIV services; 13 CSR 70-10.080; 5/2/05, 8/15/05; 8/1/05,
7/17/06, 10/2/06

inpatient, outpatient hospital services; 13 CSR 70-15.010;

3/1/06, 6/15/06, 8/1/06

nursing services; 13 CSR 70-10.015; 8/1/05, 7/17/06, 10/2/06

sanctions for false, fraudulent claims; 13 CSR 70-3.030; 8/1/06

therapy program; 13 CSR 70-70.010; 7/3/06

Title XIX provider enrollment; 13 CSR 70-3.020; 5/1/06

MENTAL HEALTH, DEPARTMENT OF

admission criteria

adult placement program; 9 CSR 50-2.510; 3/15/06, 7/3/06

children's supported living community; 9 CSR 50-2.010;

3/15/06, 7/3/06

guidelines for conditional release; 9 CSR 50-2.020; 3/15/06,

7/3/06

fire safety, individualized supported living (rule under
consideration); 9 CSR 45-5.120; 3/1/06

mental retardation and developmental disabilities

prioritizing access to funded services; 9 CSR 45-2.015;

5/1/06, 10/2/06

utilization process; 9 CSR 45-2.017; 5/1/06, 10/2/06

psychiatric and substance abuse programs

definitions; 9 CSR 10-7.140; 10/2/06

MILK BOARD, STATE

inspection fees; 2 CSR 80-5.010; 4/17/06, 8/1/06

MOTOR VEHICLE

notice of sale; 12 CSR 10-23.470; 2/1/06, 5/15/06

purple heart license plates; 12 CSR 10-23.422; 10/2/06

school bus inspection; 11 CSR 50-2.320; 9/15/06

secure power of attorney requirements; 12 CSR 10-23.420; 2/1/06,
5/15/06

NURSING HOME ADMINISTRATORS, MISSOURI BOARD OF

fees; 19 CSR 73-2.015; 1/17/06, 6/1/06

license, renewal; 19 CSR 73-2.050; 1/17/06, 6/1/06

expired license; 19 CSR 73-2.055; 1/17/06, 6/1/06

NURSING HOME PROGRAM

reimbursement plan for

HIV nursing facility services; 13 CSR 70-10.080; 6/15/06

nursing facility services; 13 CSR 70-10.015; 6/15/06

NURSING, STATE BOARD OF

advanced practice nurse; 4 CSR 200-4.100; (*changed to*
20 CSR 2200-4.100); 9/15/06

collaborative practice;

4 CSR 200-4.200 (*changed to 20 CSR 2200-4.200*); 9/15/06

4 CSR 150-5.100 (*changed to 20 CSR 2150-5.100*); 9/15/06

OCCUPATIONAL THERAPY, MISSOURI BOARD OF

requirements, continuing competency; 4 CSR 205-5.010; 1/3/06,
5/15/06

OPTOMETRY, STATE BOARD OF

fees; 4 CSR 210-2.070; 2/1/06, 5/15/06

license renewal; 4 CSR 210-2.030; 2/1/06, 5/15/06

PERSONNEL ADVISORY BOARD

appeals; 1 CSR 20-4.010; 2/15/06, 6/15/06

leaves of absence; 1 CSR 20-5.020; 11/15/05, 7/17/06

PHARMACY, STATE BOARD OF

automated dispensing, storage systems; 4 CSR 220-2.900 (*changed to 20 CSR 2220-2.900*); 10/2/06

drug distributor

- definitions, standards; 4 CSR 220-5.030 (*changed to 20 CSR 2220-5.030*); 10/2/06
- licensing requirements; 4 CSR 220-5.020 (*changed to 20 CSR 2220-5.020*); 10/2/06

fingerprint requirements; 4 CSR 220-2.450 (*changed to 20 CSR 2220-2.450*); 10/2/06

nonresident pharmacies; 4 CSR 220-2.025 (*changed to 20 CSR 2220-2.025*); 10/2/06

patient counseling; 4 CSR 220-2.190 (*changed to 20 CSR 2220-2.190*); 10/2/06

permits; 4 CSR 220-2.020 (*changed to 20 CSR 2220-2.020*); 10/2/06

standards of operation; 4 CSR 220-2.010 (*changed to 20 CSR 2220-2.010*); 10/2/06

PHYSICAL THERAPISTS AND THERAPIST ASSISTANTS

applicants for licensure; 4 CSR 150-3.010; 2/1/06, 5/15/06; (*changed to 20 CSR 2150-3.010*); 9/15/06

continuing education, acceptable; 4 CSR 150-3.203; (*changed to 20 CSR 2150-3.203*); 9/15/06

examination; 4 CSR 150-3.030; 2/1/06, 5/15/06

licenses, temporary; 4 CSR 150-3.050; 2/1/06, 5/15/06

assistants; 4 CSR 150-3.150; 2/1/06, 5/15/06

requirements for licensure

- assistants; 4 CSR 150-3.110; 2/1/06, 5/15/06

PHYSICIAN ASSISTANTS

supervision agreements; 4 CSR 150-7.135 (*Changed to 20 CSR 2150-7.135*); 9/15/06

PHYSICIANS AND SURGEONS

continuing medical education; 4 CSR 150-2.125 (*changed to 20 CSR 2150-2.125*); 9/15/06

PROBATION AND PAROLE

intervention fee procedure; 14 CSR 80-5.020; 9/15/06

PSYCHOLOGISTS, STATE COMMITTEE OF

continuing education

- programs, credits; 4 CSR 235-7.030; 8/15/06
- reports; 4 CSR 235-7.020; 8/15/06

ethical rules of conduct; 4 CSR 235-5.030; 8/15/06

PUBLIC DEFENDER, STATE OFFICE OF

guidelines for determination of indigency; 18 CSR 10-3.010; 3/1/06, 8/15/06

PUBLIC SERVICE COMMISSION

cold weather rule; 4 CSR 240-13.055; 2/1/06, 6/15/06, 9/15/06

complaints, expedited procedure; 4 CSR 240-2.071; 6/15/05

confidential information; 4 CSR 240-2.135; 7/3/06

electric utilities

- fuel, purchased power cost recovery mechanism; 4 CSR 240-20.090; 7/17/06
- filing and submission requirements; 4 CSR 240-3.161; 7/17/06

gas utilities, small company

- rate case procedure; 4 CSR 240-3.240; 10/3/05
- rate increase procedure; 4 CSR 240-3.330; 10/3/05

steam heating utility rate case procedure; 4 CSR 240-3.440; 10/3/05

telecommunication companies

- carrier designations, requirements; 4 CSR 240-3.570; 12/1/05, 5/15/06
- filing company tariffs; 4 CSR 240-3.545; 6/15/06

water utility small company

- rate case procedure; 4 CSR 240-3.635; 10/3/05
- rate increase procedure; 4 CSR 240-3.635; 10/3/05

REAL ESTATE COMMISSION

applications; 4 CSR 250-3.010; 5/1/06, 8/15/06

continuing education

- advertising; 4 CSR 250-10.060; 5/1/06, 8/15/06
- classroom course approval; 4 CSR 250-10.030; 5/1/06, 8/15/06
- individual study courses; 4 CSR 250-10.075; 5/1/06, 8/15/06
- instructor approval; 4 CSR 250-10.040; 5/1/06, 8/15/06
- investigation, review; 4 CSR 250-10.080; 5/1/06, 8/15/06
- physical facilities for classroom courses; 4 CSR 250-10.050; 5/1/06, 8/15/06
- records; 4 CSR 250-10.070; 5/1/06, 8/15/06
- requirements; 4 CSR 250-10.010; 5/1/06, 8/15/06
- for licensees; 4 CSR 250-10.100; 5/1/06, 8/15/06
- sponsors; 4 CSR 250-10.020; 5/1/06, 8/15/06

educational requirements

- content of prelicense courses; 4 CSR 250-6.020; 5/1/06, 8/15/06
- correspondence; 4 CSR 250-6.050; 5/1/06, 8/15/06
- general; 4 CSR 250-6.040; 5/1/06, 8/15/06
- salesperson, broker pre-examination; 4 CSR 250-6.060; 5/1/06, 8/15/06
- study required; 4 CSR 250-6.010; 5/1/06, 8/15/06

fees; 4 CSR 250-5.030; 5/1/06, 8/15/06

- school accreditation, course approval; 4 CSR 250-5.040; 5/1/06, 8/15/06

license examination; 4 CSR 250-3.020; 5/1/06, 8/15/06

schools, real estate

- accreditation, renewals, fees; 4 CSR 250-7.040; 5/1/06, 8/15/06
- application for accreditation; 4 CSR 250-7.020; 5/1/06, 8/15/06
- correspondence courses; 4 CSR 250-7.030; 5/1/06, 8/15/06
- distance delivered courses; 4 CSR 250-7.080; 5/1/06, 8/15/06
- general requirements; 4 CSR 250-7.070; 5/1/06, 8/15/06
- instructor standards; 4 CSR 250-7.060; 5/1/06, 8/15/06
- investigation and review; 4 CSR 250-7.090; 5/1/06, 8/15/06
- prohibition of advertising, solicitation; 4 CSR 250-7.050; 5/1/06, 8/15/06
- standards for accreditation; 4 CSR 250-7.010; 5/1/06, 8/15/06

RESIDENTIAL CARE FACILITIES AND ASSISTED LIVING FACILITIES

administrative, personnel, resident care requirements

- assisted living facilities; 19 CSR 30-86.047; 10/2/06
- new and existing RCF I and IIs; 19 CSR 30-86.042; 10/2/06
- RCF IIs on August 27, 2006 that will comply with RCF II standards; 19 CSR 30-86.043; 10/2/06

construction standards; 19 CSR 30-86.012; 10/2/06

definition of terms; 19 CSR 30-83.010; 10/2/06

dietary requirements; 19 CSR 30-86.052; 10/2/06

fire safety standards; 19 CSR 30-86.022; 10/2/06

insulin administration training program; 19 CSR 30-84.040; 10/2/06

level I medication aide; 19 CSR 30-84.030; 10/2/06

licensure requirements; 19 CSR 30-82.010; 10/2/06

physical plant requirements; 19 CSR 30-86.032; 10/2/06

resident's rights; 19 CSR 30-88.010; 10/2/06

sanitation

- food service; 19 CSR 30-87.030; 10/2/06
- new and existing RCFs; 19 CSR 30-87.020; 10/2/06

services to residents with Alzheimer's or dementia; 19 CSR 30-86.045; 10/2/06

RESPIRATORY CARE, MISSOURI BOARD FOR

application

- educational permit; 4 CSR 255-2.030 (*changed to 20 CSR 2255-2.030*); 9/15/06
- temporary permit; 4 CSR 255-2.020 (*changed to 20 CSR 2255-2.020*); 9/15/06

continuing education requirements; 4 CSR 255-4.010 (*changed to 20 CSR 2255-4.010*); 9/15/06

fees; 4 CSR 255-1.040; (*changed to 20 CSR 2255-1.040*) 9/15/06

name, address changes; 4 CSR 255-2.010 (*changed to 20 CSR 2255-2.010*); 9/15/06

RETIREMENT SYSTEMS, COUNTY EMPLOYEES

administration of fund; 16 CSR 50-2.160; 12/15/05; 4/3/06,
4/17/06, 8/1/06
creditable service; 16 CSR 50-3.010; 4/3/06, 8/1/06
distribution of accounts; 16 CSR 50-20.070; 7/17/06;
16 CSR 50-10.050; 9/15/06
payment of benefits; 16 CSR 50-2.035; 4/3/06, 4/17/06, 8/1/06

SECURITIES, DIVISION OF

forms; 15 CSR 30-50.040; 11/1/05, 4/17/06, 8/1/06
not-for-profit securities; 15 CSR 30-54.070; 5/1/06, 8/15/06
stock exchange listed securities; 15 CSR 30-54.060; 9/1/06

SENIOR AND DISABILITY SERVICES, DIVISION OF

definitions; 19 CSR 15-8.100; 1/17/06, 6/1/06
eligibility; 19 CSR 15-8.200; 1/17/06, 6/1/06
non-Medicaid eligibility; 19 CSR 15-8.300; 1/17/06, 6/1/06
hearing rights; 19 CSR 15-8.500; 1/17/06, 6/1/06
hearings; 19 CSR 15-8.520; 1/17/06, 6/1/06
informal review; 19 CSR 15-8.510; 1/17/06, 6/1/06
in-home service standards; 19 CSR 15-7.021; 7/3/06
providers; 19 CSR 15-8.400; 1/17/06, 6/1/06
vendors; 19 CSR 15-8.400; 1/17/06, 6/1/06

SOCIAL WORKERS, STATE COMMITTEE FOR

continuing education; 4 CSR 263-2.082; 2/15/06, 6/15/06
fees; 4 CSR 263-1.035 (*changed to 20 CSR 2263-1.035*); 9/15/06
inactive status; 4 CSR 263-2.090 (*changed to 20 CSR 2263-2.090*);
9/15/06

SOLID WASTE COMMISSION

definitions; 10 CSR 80-2.010; 8/1/06
site investigation; 10 CSR 80-2.015; 8/1/06

TATTOOING, BODY PIERCING, BRANDING, OFFICE OF

fees; 4 CSR 267-2.020; 8/15/06

TAX, CORPORATE INCOME

state tax add back; 12 CSR 10-200.010; 5/1/06, 9/1/06

TAX INCREMENT FINANCING

application process; 4 CSR 85-4.010; 7/3/06

TAX, SALES/USE

electricity, water, gas; 12 CSR 10-108.300; 6/1/06, 10/2/06
financial report; 12 CSR 10-42.070; 9/1/06
vending machines; 12 CSR 10-103.400; 6/1/06, 10/2/06

TAX, STATE COMMISSION

agricultural productive land values; 12 CSR 30-4.010; 2/1/06,
7/3/06
appraisal evidence; 12 CSR 30-3.065; 2/1/06, 7/3/06
exchanges of exhibits, prefiled direct testimony, objections;
12 CSR 30-3.060; 2/1/06, 7/3/06
meetings, hearings; 12 CSR 30-1.020; 5/15/06, 9/1/06
organization; 12 CSR 30-1.010; 5/15/06, 9/1/06
tangible personal property
determining class life; 12 CSR 30-3.090; 5/15/06, 9/1/06

TRAVEL REGULATIONS, STATE

vehicular travel; 1 CSR 10-11.030; 6/15/06

VETERINARY MEDICAL BOARD, MISSOURI

application; 4 CSR 270-1.031; 1/3/06, 5/15/06
renewal; 4 CSR 270-1.050 (*changed to 20 CSR 2270-1.050*);
1/3/06, 5/15/06, 9/15/06
standards, minimum
medical records; 4 CSR 270-4.041; 1/3/06, 5/15/06
veterinary facilities; 4 CSR 270-4.011; 1/3/06, 5/15/06

VETERANS RECOGNITION PROGRAM

recognition awards; 11 CSR 10-5.010; 9/1/05, 12/15/05, 9/15/06

WEIGHTS AND MEASURES

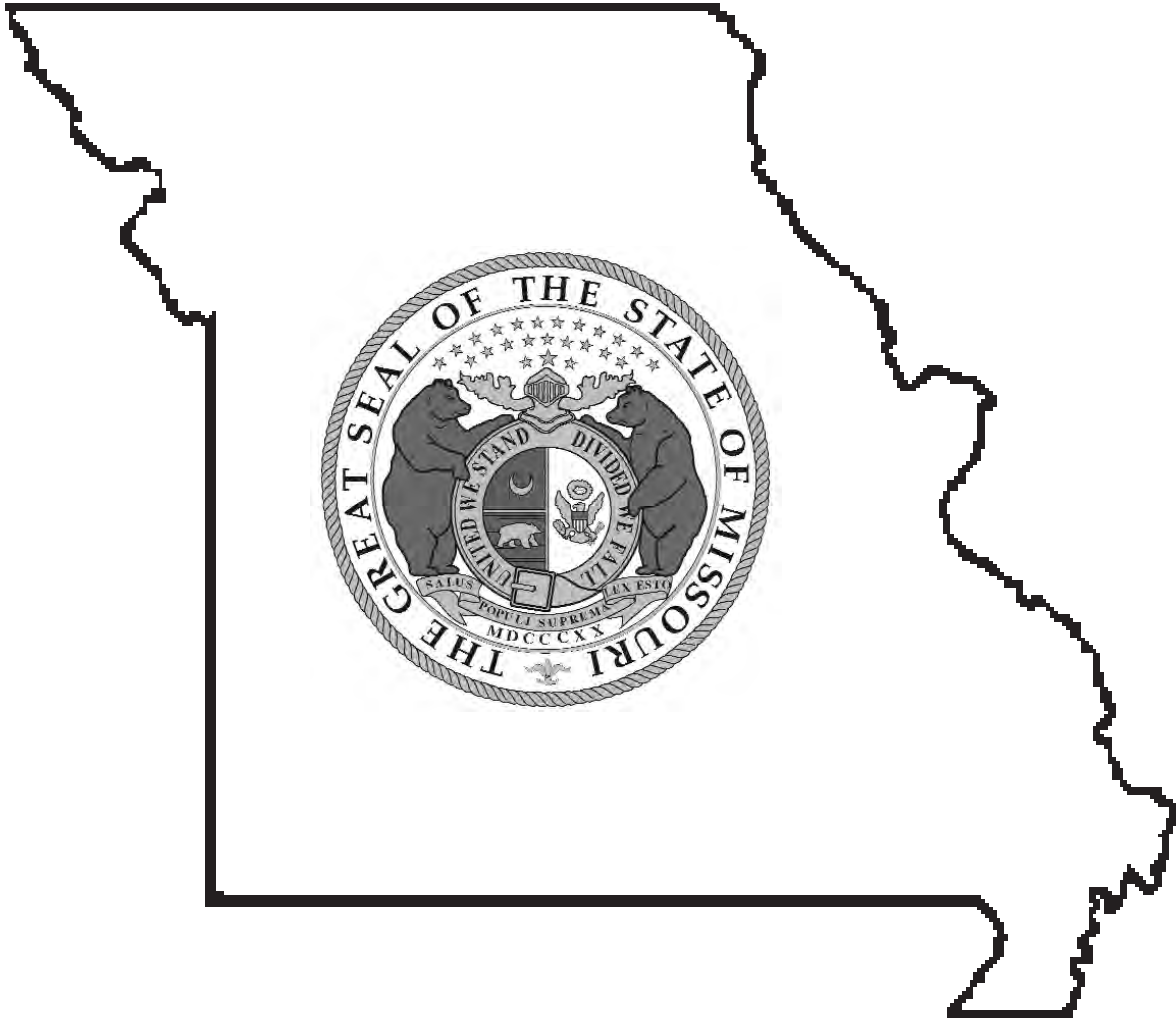
NIST Handbook
method and sale of commodities; 2 CSR 90-20.040; 1/17/06,
5/15/06
measuring and inspecting packages or commodities;
2 CSR 90-23.010; 1/17/06; 5/15/06
packaging and labeling; 2 CSR 90-22.140; 1/17/06, 5/15/06
price verification procedures; 2 CSR 90-25.010; 1/17/06, 5/15/06

WORKERS' COMPENSATION, DIVISION OF

administrative law judges; 8 CSR 50-2.060; 5/15/06, 9/1/06
administration; 8 CSR 50-2.020; 1/3/06, 5/1/06
medical fee disputes; 8 CSR 50-2.030; 9/15/06

RULEMAKING 1-2-3

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